

**Senate File 2145 - Introduced**

SENATE FILE 2145

BY DVORSKY

**A BILL FOR**

1 An Act relating to elder and dependent adult abuse, and  
2 providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

ELDER AND DEPENDENT ADULT ABUSE

Section 1. Section 235B.1, Code 2014, is amended to read as follows:

**235B.1 Dependent Elder and dependent adult abuse services.**

The department shall establish and operate a an elder and dependent adult abuse services program. The program shall emphasize the reporting and evaluation of cases of abuse of an elder or a dependent adult who is unable to protect the adult's own interests or unable to perform activities necessary to meet essential human needs. The program shall include but is not limited to:

1. The establishment of local or regional multidisciplinary teams to assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to victims of elder or dependent adult abuse. The membership of a team shall include individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of elder and dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, mental health, social work, law, law enforcement, or other disciplines relative to elders and dependent adults. Members of a team shall include but are not limited to persons representing the area agencies on aging, county attorneys, health care providers, and other persons involved in advocating or providing services to elders or dependent adults.

2. Provisions for information sharing and case consultation among service providers, care providers, and victims of elder or dependent adult abuse.

3. Procedures for referral of cases among service providers, including the referral of victims of elder or dependent adult abuse residing in licensed health care facilities.

4. *a.* The establishment of a an elder and dependent adult protective advisory council. The advisory council shall do all

1 of the following:

2 (1) Advise the director of human services, the director  
3 of the department on aging, the director of the department of  
4 inspections and appeals, the director of public health, the  
5 director of the department of corrections, and the director of  
6 the department of human rights regarding elder and dependent  
7 adult abuse.

8 (2) Evaluate state law and rules and make recommendations  
9 to the general assembly and to executive branch departments  
10 regarding laws and rules concerning elders and dependent  
11 adults.

12 (3) Receive and review recommendations and complaints from  
13 the public, health care facilities, and health care programs  
14 concerning the elder and dependent adult abuse services  
15 program.

16 b. (1) The advisory council shall consist of twelve  
17 members. Eight members shall be appointed by and serve at  
18 the pleasure of the governor. Four of the members appointed  
19 shall be appointed on the basis of knowledge and skill related  
20 to expertise in the area of elder and dependent adult abuse  
21 including professionals practicing in the disciplines of  
22 medicine, public health, mental health, long-term care, social  
23 work, law, and law enforcement. Two of the members appointed  
24 shall be members of the general public with an interest in the  
25 area of elder and dependent adult abuse and two of the members  
26 appointed shall be members of the Iowa caregivers association.  
27 In addition, the membership of the council shall include the  
28 director or the director's designee of the department of human  
29 services, the department on aging, the Iowa department of  
30 public health, and the department of inspections and appeals.

31 (2) The members of the advisory council shall be appointed  
32 to terms of four years beginning May 1. Appointments shall  
33 comply with sections 69.16 and 69.16A. Vacancies shall be  
34 filled in the same manner as the original appointment.

35 (3) Members shall receive actual expenses incurred while

1 serving in their official capacity.

2 (4) The advisory council shall select a chairperson,  
3 annually, from its membership.

4 Sec. 2. Section 235B.2, Code 2014, is amended to read as  
5 follows:

6 **235B.2 Definitions.**

7 As used in this chapter, unless the context otherwise  
8 requires:

9 1. a. "Abuse" means:

10 (1) Any of the following as a result of the willful,  
11 reckless, or negligent acts or omissions of an individual other  
12 than the elder or dependent adult:

13 (a) Physical injury to, or injury which is at a variance  
14 with the history given of the injury, or unreasonable  
15 confinement, unreasonable punishment, or assault of an elder or  
16 a dependent adult.

17 (b) The commission of a sexual offense under chapter 709 or  
18 section 726.2 with or against an elder or a dependent adult.

19 (c) Financial exploitation of an elder or dependent adult  
20 which means the illegal, unauthorized, or improper use of an  
21 elder's or dependent adult's funds, property, or assets for  
22 the personal or pecuniary profit or benefit of a person other  
23 than the elder or dependent adult. Financial exploitation  
24 includes but is not limited to obtaining the use of an  
25 elder's or dependent adult's funds, property, or other assets  
26 through undue influence, harassment, duress, deception, or  
27 misrepresentation for the profit or benefit of a person other  
28 than the elder or dependent adult.

29 (d) The deprivation of the minimum food, shelter, clothing,  
30 supervision, physical or mental health care, or other care  
31 necessary to maintain an elder's or a dependent adult's life  
32 or health.

33 (2) The deprivation of the minimum food, shelter, clothing,  
34 supervision, physical or mental health care, and other care  
35 necessary to maintain a dependent adult's life or health as a

1 result of the acts or omissions of the dependent adult.

2 (3) (a) Sexual exploitation of an elder or a dependent  
3 adult by an individual other than the elder or dependent adult.

4 (b) "*Sexual exploitation of an elder*" means any  
5 nonconsensual sexual conduct with an elder which includes  
6 but is not limited to kissing; touching of the clothed or  
7 unclothed inner thigh, breast, groin, buttock, anus, pubes,  
8 or genitals; or a sex act, as defined in section 702.17.  
9 "*Sexual exploitation of an elder*" includes the nonconsensual  
10 transmission, display, taking of electronic images of the  
11 unclothed breast, groin, buttock, anus, pubes, or genitals  
12 of an elder by another person for a purpose not related to  
13 treatment or diagnosis or as part of an ongoing assessment,  
14 evaluation, or investigation. "*Sexual exploitation of an*  
15 *elder*" does not include touching which is part of a necessary  
16 examination, treatment, or care by a caretaker acting within  
17 the scope of the practice or employment of the caretaker;  
18 the exchange of a brief touch or hug between the elder and a  
19 caretaker for the purpose of reassurance, comfort, or casual  
20 friendship; or touching between spouses or domestic partners.

21 (c) "*Sexual exploitation of a dependent adult*" means any  
22 consensual or nonconsensual sexual conduct with a dependent  
23 adult which includes but is not limited to kissing; touching of  
24 the clothed or unclothed inner thigh, breast, groin, buttock,  
25 anus, pubes, or genitals; or a sex act, as defined in section  
26 702.17. "*Sexual exploitation of a dependent adult*" includes  
27 the transmission, display, taking of electronic images of the  
28 unclothed breast, groin, buttock, anus, pubes, or genitals  
29 of a dependent adult by another person for a purpose not  
30 related to treatment or diagnosis or as part of an ongoing  
31 assessment, evaluation, or investigation. "*Sexual exploitation*  
32 *of a dependent adult*" does not include touching which is part  
33 of a necessary examination, treatment, or care by a caretaker  
34 acting within the scope of the practice or employment of the  
35 caretaker; the exchange of a brief touch or hug between the

1 dependent adult and a caretaker for the purpose of reassurance,  
2 comfort, or casual friendship; or touching between spouses or  
3 domestic partners.

4 b. "Abuse" does not include any of the following:

5 (1) Circumstances in which an elder or a dependent adult  
6 declines medical treatment if the elder or dependent adult  
7 holds a belief or is an adherent of a religion whose tenets  
8 and practices call for reliance on spiritual means in place of  
9 reliance on medical treatment.

10 (2) Circumstances in which an elder's or a dependent  
11 adult's caretaker, acting in accordance with the elder's or  
12 dependent adult's stated or implied consent, declines medical  
13 treatment if the elder or dependent adult holds a belief or is  
14 an adherent of a religion whose tenets and practices call for  
15 reliance on spiritual means in place of reliance on medical  
16 treatment.

17 (3) The withholding or withdrawing of health care from an  
18 elder or a dependent adult who is terminally ill in the opinion  
19 of a licensed physician, when the withholding or withdrawing  
20 of health care is done at the request of the elder or dependent  
21 adult or at the request of the elder's or dependent adult's  
22 next of kin, attorney in fact, or guardian pursuant to the  
23 applicable procedures under chapter 125, 144A, 144B, 222, 229,  
24 or 633.

25 (4) Good-faith assistance by a family or household member  
26 or other person in managing the financial affairs of an elder  
27 or dependent adult at the request of the elder or a dependent  
28 adult, or a family member, guardian, or conservator of the  
29 elder or dependent adult.

30 ~~1.~~ 2. "Caretaker" means a related or nonrelated person who  
31 has the responsibility for all or a portion of the protection,  
32 care, or custody of an elder or a dependent adult as a result of  
33 assuming the responsibility voluntarily, by contract, through  
34 employment, or by order of the court.

35 ~~2.~~ 3. "Court" means the district court.

1     ~~3.~~ 4.    "*Department*" means the department of human services.

2     ~~4.~~ 5.    "*Dependent adult*" means a person eighteen years  
3 of age or older who is unable to protect the person's own  
4 interests or unable to adequately perform or obtain services  
5 necessary to meet essential human needs, as a result of a  
6 physical or mental condition which requires assistance from  
7 another, or as defined by departmental rule.

8     ~~5.—a.~~ 6.    "*Dependent adult abuse*" means: abuse of a  
9 dependent adult.

10    ~~(1) Any of the following as a result of the willful or~~  
11 ~~negligent acts or omissions of a caretaker:~~

12    ~~(a) Physical injury to, or injury which is at a variance~~  
13 ~~with the history given of the injury, or unreasonable~~  
14 ~~confinement, unreasonable punishment, or assault of a dependent~~  
15 ~~adult.~~

16    ~~(b) The commission of a sexual offense under chapter 709 or~~  
17 ~~section 726.2 with or against a dependent adult.~~

18    ~~(c) Exploitation of a dependent adult which means the act~~  
19 ~~or process of taking unfair advantage of a dependent adult~~  
20 ~~or the adult's physical or financial resources for one's own~~  
21 ~~personal or pecuniary profit, without the informed consent~~  
22 ~~of the dependent adult, including theft, by the use of undue~~  
23 ~~influence, harassment, duress, deception, false representation,~~  
24 ~~or false pretenses.~~

25    ~~(d) The deprivation of the minimum food, shelter, clothing,~~  
26 ~~supervision, physical or mental health care, or other care~~  
27 ~~necessary to maintain a dependent adult's life or health.~~

28    ~~(2) The deprivation of the minimum food, shelter, clothing,~~  
29 ~~supervision, physical or mental health care, and other care~~  
30 ~~necessary to maintain a dependent adult's life or health as a~~  
31 ~~result of the acts or omissions of the dependent adult.~~

32    ~~(3) (a) Sexual exploitation of a dependent adult by a~~  
33 ~~caretaker.~~

34    ~~(b) "*Sexual exploitation*" means any consensual or~~  
35 ~~nonconsensual sexual conduct with a dependent adult which~~

1 ~~includes but is not limited to kissing; touching of the clothed~~  
 2 ~~or unclothed inner thigh, breast, groin, buttock, anus, pubes,~~  
 3 ~~or genitals; or a sex act, as defined in section 702.17.~~  
 4 ~~"Sexual exploitation" includes the transmission, display, taking~~  
 5 ~~of electronic images of the unclothed breast, groin, buttock,~~  
 6 ~~anus, pubes, or genitals of a dependent adult by a caretaker~~  
 7 ~~for a purpose not related to treatment or diagnosis or as~~  
 8 ~~part of an ongoing assessment, evaluation, or investigation.~~  
 9 ~~Sexual exploitation does not include touching which is part~~  
 10 ~~of a necessary examination, treatment, or care by a caretaker~~  
 11 ~~acting within the scope of the practice or employment of the~~  
 12 ~~caretaker; the exchange of a brief touch or hug between the~~  
 13 ~~dependent adult and a caretaker for the purpose of reassurance,~~  
 14 ~~comfort, or casual friendship; or touching between spouses.~~

15 ~~b. "Dependent adult abuse" does not include any of the~~  
 16 ~~following:~~

17 ~~(1) Circumstances in which the dependent adult declines~~  
 18 ~~medical treatment if the dependent adult holds a belief or is~~  
 19 ~~an adherent of a religion whose tenets and practices call for~~  
 20 ~~reliance on spiritual means in place of reliance on medical~~  
 21 ~~treatment.~~

22 ~~(2) Circumstances in which the dependent adult's caretaker,~~  
 23 ~~acting in accordance with the dependent adult's stated or~~  
 24 ~~implied consent, declines medical treatment if the dependent~~  
 25 ~~adult holds a belief or is an adherent of a religion whose~~  
 26 ~~tenets and practices call for reliance on spiritual means in~~  
 27 ~~place of reliance on medical treatment.~~

28 ~~(3) The withholding or withdrawing of health care from~~  
 29 ~~a dependent adult who is terminally ill in the opinion of a~~  
 30 ~~licensed physician, when the withholding or withdrawing of~~  
 31 ~~health care is done at the request of the dependent adult or at~~  
 32 ~~the request of the dependent adult's next of kin, attorney in~~  
 33 ~~fact, or guardian pursuant to the applicable procedures under~~  
 34 ~~chapter 125, 144A, 144B, 222, 229, or 633.~~

35 7. "Elder" means a resident of this state who is sixty-five



1 years of age or older.

2 8. "Elder abuse" means abuse of an elder.

3 ~~6.~~ 9. "Emergency shelter services" means and includes,  
4 but is not limited to, secure crisis shelters or housing for  
5 victims of elder or dependent adult abuse.

6 ~~7.~~ 10. "Family or household member" means a spouse,  
7 a person cohabiting with the elder or dependent adult, a  
8 parent, or a person related to the elder or dependent adult by  
9 consanguinity or affinity, but does not include children of the  
10 elder or dependent adult who are less than eighteen years of  
11 age.

12 ~~8.~~ 11. "Immediate danger to health or safety" means  
13 a situation in which death or severe bodily injury could  
14 reasonably be expected to occur without intervention.

15 ~~9.~~ 12. "Individual employed as an outreach person" means a  
16 natural person who, in the course of employment, makes regular  
17 contacts with elder or dependent adults regarding available  
18 community resources.

19 ~~10.~~ 13. "Legal holiday" means a legal public holiday as  
20 defined in section 1C.1.

21 ~~11.~~ 14. "Person" means person as defined in section 4.1.

22 ~~12.~~ 15. "Recklessly" means that a person acts or fails to  
23 act with respect to a material element of a public offense,  
24 when the person is aware of and consciously disregards a  
25 substantial and unjustifiable risk that the material element  
26 exists or will result from the act or omission. The risk must  
27 be of such a nature and degree that disregard of the risk  
28 constitutes a gross deviation from the standard conduct that a  
29 reasonable person would observe in the situation.

30 ~~13.~~ 16. "Serious injury" means the same as defined in  
31 section 702.18.

32 ~~14.~~ 17. "Support services" includes but is not limited  
33 to community-based services including area agency on aging  
34 assistance, mental health services, fiscal management, home  
35 health services, housing-related services, counseling services,

1 transportation services, adult day services, respite services,  
2 legal services, and advocacy services.

3 Sec. 3. Section 235B.3, Code 2014, is amended to read as  
4 follows:

5 **235B.3 Dependent Elder and dependent adult abuse reports.**

6 1. a. (1) The department shall receive elder and  
7 dependent adult abuse reports and shall collect, maintain, and  
8 disseminate the reports by establishing a central registry for  
9 elder and dependent adult abuse information. The department  
10 shall evaluate the reports expeditiously.

11 (2) However, the department of inspections and appeals  
12 is solely responsible for the evaluation and disposition of  
13 dependent adult abuse cases within facilities and programs  
14 pursuant to chapter 235E and shall inform the department of  
15 human services of such evaluations and dispositions pursuant  
16 to section 235E.2.

17 (3) If, in the course of an assessment or evaluation of a  
18 report of elder or dependent adult abuse, the department of  
19 human services or the department of inspections and appeals  
20 determines the case involves wages, workplace safety, or other  
21 labor and employment matters under the jurisdiction of the  
22 division of labor services of the department of workforce  
23 development, the relevant portions of the case shall be  
24 referred to the division.

25 (4) If, in the course of an assessment or evaluation of a  
26 report of elder or dependent adult abuse, the department of  
27 human services or the department of inspections and appeals  
28 determines that the case involves discrimination under the  
29 jurisdiction of the civil rights commission, the relevant  
30 portions of the case shall be referred to the commission.

31 b. Reports of elder or dependent adult abuse which ~~is~~ are  
32 the result of the acts or omissions of the elder or dependent  
33 adult shall be collected and maintained in the files of the  
34 elder or dependent adult as assessments only and shall not be  
35 included in the central registry.

1     c. A report of elder or dependent adult abuse that meets  
 2 the definition of ~~dependent adult~~ abuse under section 235B.2,  
 3 subsection 5 1, paragraph "a", subparagraph (1), subparagraph  
 4 division (a) or (d), which the department determines is  
 5 minor, isolated, and unlikely to reoccur shall be collected  
 6 and maintained by the department as an assessment only for  
 7 a five-year period and shall not be included in the central  
 8 registry and shall not be considered to be founded elder or  
 9 dependent adult abuse. However, a subsequent report of elder  
 10 or dependent adult abuse that meets the definition of elder  
 11 or dependent adult abuse under section 235B.2, subsection 5  
 12 1, paragraph "a", subparagraph (1), subparagraph division  
 13 (a) or (d), that occurs within the five-year period and that  
 14 is committed by the ~~caretaker~~ person responsible for the act  
 15 or omission which was the subject of the previous report of  
 16 elder or dependent adult abuse which the department determined  
 17 was minor, isolated, and unlikely to reoccur shall not be  
 18 considered minor, isolated, and unlikely to reoccur.

19     2. A person who, in the course of employment, examines,  
 20 attends, counsels, or treats a an elder or dependent adult and  
 21 reasonably believes the elder or dependent adult has suffered  
 22 abuse, shall report the suspected elder or dependent adult  
 23 abuse to the department. If the person making the report has  
 24 reason to believe that immediate protection for the elder or  
 25 dependent adult is advisable, the person shall also make an  
 26 oral report to an appropriate law enforcement agency. Persons  
 27 required to report include all of the following:

28     a. A member of the staff of a community mental health  
 29 center.

30     b. A peace officer.

31     c. An in-home homemaker-home health aide.

32     d. An individual employed as an outreach person.

33     e. A health practitioner, as defined in section 232.68.

34     f. A member of the staff or an employee of a supported  
 35 community living service, sheltered workshop, or work activity

1 center.

2     *g.* A social worker.

3     *h.* A certified psychologist.

4     3. *a.* If a staff member or employee is required to report  
5 pursuant to this section, the person shall immediately notify  
6 the department and shall also immediately notify the person in  
7 charge or the person's designated agent.

8     *b.* The employer or supervisor of a person who is required to  
9 or may make a report pursuant to this section shall not apply a  
10 policy, work rule, or other requirement that interferes with  
11 the person making a report of elder or dependent adult abuse  
12 or that results in the failure of another person to make the  
13 report.

14     4. An employee of a financial institution may report  
15 suspected financial exploitation of an elder or a dependent  
16 adult to the department.

17     5. Any other person who believes that an elder or a  
18 dependent adult has suffered abuse may report the suspected  
19 abuse to the department of human services.

20     6. Following the reporting of suspected elder or dependent  
21 adult abuse, the department of human services or an agency  
22 approved by the department shall complete an assessment of  
23 necessary services and shall make appropriate referrals for  
24 receipt of these services. The assessment shall include  
25 interviews with the elder or dependent adult, and, if  
26 appropriate, with the alleged perpetrator of the elder or  
27 dependent adult abuse and with any person believed to have  
28 knowledge of the circumstances of the case. The department  
29 may provide necessary protective services and may establish a  
30 sliding fee schedule for those persons able to pay a portion of  
31 the protective services.

32     7. Upon a showing of probable cause that an elder or  
33 a dependent adult has been abused, a court may authorize  
34 a person, also authorized by the department, to make an  
35 evaluation, to enter the residence of, and to examine the

1 elder or dependent adult. Upon a showing of probable cause  
2 that an elder or a dependent adult has been financially  
3 exploited, a court may authorize a person, also authorized by  
4 the department, to make an evaluation, and to gain access to  
5 the financial records of the elder or dependent adult.

6 8. If the department determines that disclosure is  
7 necessary for the protection of an elder or a dependent adult,  
8 the department may disclose to a subject of an elder or a  
9 dependent adult abuse report referred to in section 235B.6,  
10 subsection 2, paragraph "a", that an individual is listed  
11 in the child or elder and dependent adult abuse registry or  
12 is required to register with the sex offender registry in  
13 accordance with chapter 692A.

14 9. The department shall inform the appropriate county  
15 attorneys of any reports of elder or dependent adult abuse.  
16 The department may request information from any person believed  
17 to have knowledge of a case of elder or dependent adult abuse.  
18 The person, including but not limited to a county attorney,  
19 a law enforcement agency, a multidisciplinary team, a social  
20 services agency in the state, or any person who is required  
21 pursuant to subsection 2 to report elder or dependent adult  
22 abuse, whether or not the person made the specific elder or  
23 dependent adult abuse report, shall cooperate and assist in  
24 the evaluation upon the request of the department. If the  
25 department's assessment reveals that elder or dependent adult  
26 abuse exists which might constitute a criminal offense, a  
27 report shall be made to the appropriate law enforcement agency.  
28 County attorneys and appropriate law enforcement agencies shall  
29 also take any other lawful action necessary or advisable for  
30 the protection of the elder or dependent adult.

31 a. If, upon completion of the evaluation or upon referral  
32 from the department of inspections and appeals, the department  
33 determines that the best interests of the elder or dependent  
34 adult require court action, the department shall initiate  
35 action for the appointment of a guardian or conservator or

1 for admission or commitment to an appropriate institution  
2 or facility pursuant to the applicable procedures under  
3 chapter 125, 222, 229, or 633, or shall pursue other remedies  
4 provided by law. The appropriate county attorney shall assist  
5 the department in the preparation of the necessary papers  
6 to initiate the action and shall appear and represent the  
7 department at all district court proceedings.

8     **b.** The department shall assist the court during all stages  
9 of court proceedings involving a suspected case of elder or  
10 dependent adult abuse.

11     **c.** In every case involving abuse which is substantiated  
12 by the department and which results in a judicial proceeding  
13 on behalf of the elder or dependent adult, legal counsel  
14 shall be appointed by the court to represent the elder or  
15 dependent adult in the proceedings. The court may also appoint  
16 a guardian ad litem to represent the elder or dependent adult  
17 if necessary to protect the elder's or dependent adult's best  
18 interests. The same attorney may be appointed to serve both as  
19 legal counsel and as guardian ad litem. Before legal counsel  
20 or a guardian ad litem is appointed pursuant to this section,  
21 the court shall require the elder or dependent adult and any  
22 person legally responsible for the support of the elder or  
23 dependent adult to complete under oath a detailed financial  
24 statement. If, on the basis of that financial statement, the  
25 court deems that the elder or dependent adult or the legally  
26 responsible person is able to bear all or a portion of the cost  
27 of the legal counsel or guardian ad litem, the court shall so  
28 order. In cases where the elder or dependent adult or the  
29 legally responsible person is unable to bear the cost of the  
30 legal counsel or guardian ad litem, the expense shall be paid  
31 by the county.

32     **10.** A person participating in good faith in reporting or  
33 cooperating with or assisting the department in evaluating  
34 a case of elder or dependent adult abuse has immunity from  
35 liability, civil or criminal, which might otherwise be incurred

1 or imposed based upon the act of making the report or giving  
2 the assistance. The person has the same immunity with respect  
3 to participating in good faith in a judicial proceeding  
4 resulting from the report or cooperation or assistance or  
5 relating to the subject matter of the report, cooperation, or  
6 assistance.

7 11. It shall be unlawful for any person or employer to  
8 discharge, suspend, or otherwise discipline a person required  
9 to report or voluntarily reporting an instance of suspected  
10 elder or dependent adult abuse pursuant to subsection 2 or  
11 5, or cooperating with, or assisting the department of human  
12 services in evaluating a case of elder or dependent adult  
13 abuse, or participating in judicial proceedings relating to the  
14 reporting or cooperation or assistance based solely upon the  
15 person's reporting or assistance relative to the instance of  
16 elder or dependent adult abuse. A person or employer found in  
17 violation of this subsection is guilty of a simple misdemeanor.

18 12. A person required by this section to report a suspected  
19 case of elder or dependent adult abuse who knowingly and  
20 willfully fails to do so commits a simple misdemeanor. A  
21 person required by this section to report a suspected case of  
22 elder or dependent adult abuse who knowingly fails to do so  
23 or who knowingly, in violation of subsection 3, interferes  
24 with the making of such a report or applies a requirement that  
25 results in such a failure is civilly liable for the damages  
26 proximately caused by the failure.

27 13. The department of inspections and appeals shall adopt  
28 rules which require facilities or programs to separate an  
29 alleged elder or dependent adult abuser from a victim following  
30 an allegation of perpetration of abuse and prior to the  
31 completion of an investigation of the allegation.

32 Sec. 4. Section 235B.3A, Code 2014, is amended to read as  
33 follows:

34 **235B.3A Prevention of additional abuse — notification of**  
35 **rights.**

1 If a peace officer has reason to believe that elder or  
2 dependent adult abuse, which is criminal in nature, has  
3 occurred, the officer shall use all reasonable means to  
4 prevent further abuse, including but not limited to any of the  
5 following:

6 1. If requested, remaining on the scene as long as there is  
7 a danger to the elder's or dependent adult's physical safety  
8 without the presence of a peace officer, including but not  
9 limited to staying in the dwelling unit, or if unable to remain  
10 at the scene, assisting the elder or dependent adult in leaving  
11 the residence and securing support services or emergency  
12 shelter services.

13 2. Assisting the elder or dependent adult in obtaining  
14 medical treatment necessitated by the elder or dependent adult  
15 abuse, including providing assistance to the elder or dependent  
16 adult in obtaining transportation to the emergency room of the  
17 nearest hospital.

18 3. Providing a the elder or dependent adult with immediate  
19 and adequate notice of the elder's or dependent adult's rights.  
20 The notice shall consist of handing the elder or dependent  
21 adult a document that includes the telephone numbers of  
22 shelters, support groups, and crisis lines operating in the  
23 area and contains a copy of the following written statement;  
24 requesting the elder or dependent adult to read the card;  
25 and asking the elder or dependent adult whether the elder or  
26 dependent adult understands the rights:

27 a. You have the right to ask the court for the following help  
28 on a temporary basis:

29 (1) Keeping the alleged perpetrator away from you, your  
30 home, and your place of work.

31 (2) The right to stay at your home without interference from  
32 the alleged perpetrator.

33 (3) Professional counseling for you, your family, or  
34 household members, and the alleged perpetrator of the elder or  
35 dependent adult abuse.



1    *b.* If you are in need of medical treatment, you have the  
2 right to request that the peace officer present assist you in  
3 obtaining transportation to the nearest hospital or otherwise  
4 assist you.

5    *c.* If you believe that police protection is needed for  
6 your physical safety, you have the right to request that the  
7 peace officer present remain at the scene until you and other  
8 affected parties can leave or safety is otherwise ensured.

9    Sec. 5. Section 235B.4, Code 2014, is amended to read as  
10 follows:

11    **235B.4 Legislative findings and purposes.**

12    1. The general assembly finds and declares that a central  
13 registry is required to provide a single source for the  
14 statewide collection, maintenance, and dissemination of elder  
15 and dependent adult abuse information. Such a registry is  
16 imperative for increased effectiveness in dealing with the  
17 problem of elder and dependent adult abuse. The general  
18 assembly also finds that vigorous protection of rights of  
19 individual privacy is an indispensable element of a fair and  
20 effective system of collecting, maintaining, and disseminating  
21 elder and dependent adult abuse information.

22    2. The purposes of this section and sections 235B.5 to  
23 235B.13 are to facilitate the identification of victims or  
24 potential victims of elder or dependent adult abuse by making  
25 available a single, statewide source of elder and dependent  
26 adult abuse data; to facilitate research on elder and dependent  
27 adult abuse by making available a single, statewide source of  
28 elder and dependent adult abuse data; and to provide maximum  
29 safeguards against the unwarranted invasions of privacy which  
30 such a registry might otherwise entail.

31    Sec. 6. Section 235B.5, Code 2014, is amended to read as  
32 follows:

33    **235B.5 Creation and maintenance of a central registry.**

34    1. There is created within the department a central  
35 registry for elder and dependent adult abuse information. The

1 department shall organize and staff the registry and adopt  
2 rules for its operation.

3 2. The registry shall collect, maintain, and disseminate  
4 elder and dependent adult abuse information as provided in this  
5 chapter.

6 3. The department shall maintain a toll-free telephone  
7 line, which shall be available on a twenty-four-hour-a-day,  
8 seven-day-a-week basis and which the department and all other  
9 persons may use to report cases of suspected elder or dependent  
10 adult abuse and that all persons authorized by this chapter may  
11 use for obtaining elder and dependent adult abuse information.

12 4. An oral report of suspected elder or dependent adult  
13 abuse initially made to the central registry shall be  
14 immediately transmitted by the department to the appropriate  
15 county department of human services or law enforcement agency,  
16 or both.

17 5. An oral report of suspected elder or dependent adult  
18 abuse initially made to the central registry regarding a  
19 facility or program as defined in section 235E.1 shall be  
20 transmitted by the department to the department of inspections  
21 and appeals on the first working day following the submitting  
22 of the report.

23 6. The registry, upon receipt of a report of suspected  
24 elder or dependent adult abuse, shall search the records of  
25 the registry, and if the records of the registry reveal any  
26 previous report of elder or dependent adult abuse involving  
27 the same elder or dependent adult or if the records reveal any  
28 other pertinent information with respect to the same elder or  
29 dependent adult, the appropriate office of the department of  
30 human services or the appropriate law enforcement agency shall  
31 be immediately notified of that fact.

32 7. The central registry shall include but not be limited to  
33 report data, investigation data, and disposition data.

34 Sec. 7. Section 235B.6, Code 2014, is amended to read as  
35 follows:

1     **235B.6 Authorized access.**

2     1. Notwithstanding chapter 22, the confidentiality of  
3 all elder and dependent adult abuse information shall be  
4 maintained, except as specifically provided by subsections 2  
5 and 3.

6     2. Access to elder and dependent adult abuse information  
7 other than unfounded elder or dependent adult abuse information  
8 is authorized only to the following persons:

9     a. A subject of a report including all of the following:

10     (1) To an elder or a dependent adult named in a report as  
11 a victim of abuse or to the elder's or a dependent adult's  
12 attorney or guardian ad litem.

13     (2) To a guardian or legal custodian, or that person's  
14 attorney, of an elder or a dependent adult named in a report as  
15 a victim of abuse.

16     (3) To the person or the attorney for the person named in a  
17 report as having abused an elder or a dependent adult.

18     b. A person involved in an investigation of elder or  
19 dependent adult abuse including all of the following:

20     (1) A health practitioner or mental health professional who  
21 is examining, attending, or treating an elder or a dependent  
22 adult whom such practitioner or professional believes or has  
23 reason to believe has been the victim of abuse or to a health  
24 practitioner or mental health professional whose consultation  
25 with respect to an elder or a dependent adult believed to have  
26 been the victim of abuse is requested by the department.

27     (2) An employee or agent of the department responsible for  
28 the investigation of an elder or a dependent adult abuse report  
29 or for the purpose of performing record checks as required  
30 under section 135C.33.

31     (3) A representative of the department involved in the  
32 certification or accreditation of an agency or program  
33 providing care or services to an elder or a dependent adult  
34 believed to have been a victim of abuse.

35     (4) A law enforcement officer responsible for assisting

1 in an investigation of an elder or a dependent adult abuse  
2 allegation.

3 (5) A multidisciplinary team, if the department of human  
4 services approves the composition of the multidisciplinary team  
5 and determines that access to the team is necessary to assist  
6 the department in the investigation, diagnosis, assessment, and  
7 disposition of a case of elder or dependent adult abuse.

8 (6) The mandatory reporter who reported the elder or  
9 dependent adult abuse in an individual case.

10 (7) Each board specified under chapter 147 and the Iowa  
11 department of public health for the purpose of licensure,  
12 certification or registration, disciplinary investigation, or  
13 the renewal of licensure, certification or registration, or  
14 disciplinary proceedings of health care professionals.

15 c. A person providing care to an elder or a dependent adult  
16 including all of the following:

17 (1) A licensing authority for a facility, including a  
18 facility or program defined in section 235E.1, providing care  
19 to an elder or a dependent adult named in a report.

20 (2) A person authorized as responsible for the care or  
21 supervision of an elder or a dependent adult named in a report  
22 as a victim of abuse or a person named in a report as having  
23 abused an elder or a dependent adult if the court or registry  
24 deems access to elder or dependent adult abuse information by  
25 such person to be necessary.

26 (3) An employee or agent of the department responsible  
27 for registering or licensing or approving the registration or  
28 licensing of a person, or to ~~an individual~~ a person providing  
29 care to an elder or a dependent adult and regulated by the  
30 department.

31 (4) The legally authorized protection and advocacy agency  
32 recognized pursuant to section 135C.2 if a person identified in  
33 the information as a victim or a perpetrator of abuse resided  
34 in or receives services from a facility, including a facility  
35 or program defined in section 235E.1, or agency because the

1 person is diagnosed as having a developmental disability or a  
2 mental illness.

3 (5) To an administrator of an agency certified by the  
4 department of human services to provide services under a  
5 medical assistance home and community-based services waiver,  
6 if the information concerns a person employed by or being  
7 considered by the agency for employment.

8 (6) To the administrator of an agency providing mental  
9 health, intellectual disability, or developmental disability  
10 services under a county management plan developed pursuant to  
11 section 331.439, if the information concerns a person employed  
12 by or being considered by the agency for employment.

13 (7) To an administrator of a hospital licensed under chapter  
14 135B if the data concerns a person employed or being considered  
15 for employment by the hospital.

16 (8) An employee of an agency requested by the department  
17 to provide case management or other services to the elder or  
18 dependent adult.

19 d. Relating to judicial and administrative proceedings,  
20 persons including all of the following:

21 (1) A court upon a finding that information is necessary  
22 for the resolution of an issue arising in any phase of a case  
23 involving elder or dependent adult abuse.

24 (2) A court or agency hearing an appeal for correction  
25 of elder or dependent adult abuse information as provided in  
26 section 235B.10.

27 (3) An expert witness or a witness who testifies at any  
28 stage of an appeal necessary for correction of elder or  
29 dependent adult abuse information as provided in section  
30 235B.10.

31 (4) A court or administrative agency making a determination  
32 regarding an unemployment compensation claim pursuant to  
33 section 96.6.

34 e. Other persons including all of the following:

35 (1) A person conducting bona fide research on elder or

1 dependent adult abuse, but without information identifying  
2 individuals named in an elder or a dependent adult abuse  
3 report, unless having that information open to review is  
4 essential to the research or evaluation and the authorized  
5 registry officials give prior written approval and the elder or  
6 dependent adult, the elder's or dependent adult's guardian or  
7 guardian ad litem, and the person named in a report as having  
8 abused an elder or a dependent adult give permission to release  
9 the information.

10 (2) Registry or department personnel when necessary to the  
11 performance of their official duties or a person or agency  
12 under contract with the department to carry out official duties  
13 and functions of the registry.

14 (3) The department of justice for the sole purpose of the  
15 filing of a claim for reparation pursuant to sections 915.21  
16 and 915.84.

17 (4) A legally constituted adult protection agency of  
18 another state which is investigating or treating an elder or a  
19 dependent adult named in a report as having been abused.

20 (5) The attorney for the department who is responsible for  
21 representing the department.

22 (6) A health care facility administrator or the  
23 administrator's designee, following the appeals process, for  
24 the purpose of hiring staff or continued employment of staff.

25 (7) To the administrator of an agency providing care to an  
26 elder or a dependent adult in another state, for the purpose of  
27 performing an employment background check.

28 (8) To the superintendent, or the superintendent's  
29 designee, of a school district or to the authorities in charge  
30 of an accredited nonpublic school for purposes of a volunteer  
31 or employment record check.

32 (9) The department of inspections and appeals for purposes  
33 of record checks of applicants for employment with the  
34 department of inspections and appeals.

35 (10) The state or a local long-term care ombudsman if the

1 victim resides in or the alleged perpetrator is an employee of  
2 a long-term care facility as defined in section 231.4.

3 (11) The state office or a local office of substitute  
4 decision maker as defined in section 231E.3, if the information  
5 relates to the provision of legal services for a client served  
6 by the state or local office of substitute decision maker.

7 (12) A nursing program that is approved by the state board  
8 of nursing under section 152.5, if the information relates to a  
9 record check performed pursuant to section 152.5.

10 (13) To the board of educational examiners created under  
11 chapter 272 for purposes of determining whether a license,  
12 certificate, or authorization should be issued, denied, or  
13 revoked.

14 (14) The department on aging for the purposes of conducting  
15 background checks of applicants for employment with the  
16 department on aging.

17 (15) To the Iowa veterans home for purposes of record checks  
18 of potential volunteers and volunteers in the Iowa veterans  
19 home.

20 (16) To the administrator of a certified nurse aide program,  
21 if the data relates to a record check of a student of the  
22 program performed pursuant to section 135C.33.

23 (17) To the administrator of a juvenile detention or shelter  
24 care home, if the data relates to a record check of an existing  
25 or prospective employee, resident, or volunteer for or in the  
26 home.

27 (18) To the employer or prospective employer of a school bus  
28 driver for purposes of an employment record check.

29 f. To a person who submits written authorization from  
30 an individual allowing the person access to information on  
31 the determination only on whether or not the individual who  
32 authorized the access is named in a founded elder or dependent  
33 adult abuse report as having abused an elder or a dependent  
34 adult.

35 3. Access to unfounded elder or dependent adult abuse

1 information is authorized only to those persons identified in  
2 subsection 2, paragraph "a", paragraph "b", subparagraphs (2),  
3 (5), and (6), and paragraph "e", subparagraphs (2) and (10).

4 Sec. 8. Section 235B.7, Code 2014, is amended to read as  
5 follows:

6 **235B.7 Requests for elder or dependent adult abuse**  
7 **information.**

8 1. Requests for elder or dependent adult abuse information  
9 shall be in writing on forms prescribed by the department,  
10 except as otherwise provided by subsection 2. Request forms  
11 shall require information sufficient to demonstrate authorized  
12 access.

13 2. Requests for elder or dependent adult abuse information  
14 may be made orally by telephone if a person making the request  
15 believes that the information is needed immediately and if  
16 information sufficient to demonstrate authorized access is  
17 provided. If a request is made orally by telephone, a written  
18 request form shall be filed within seventy-two hours of the  
19 oral request.

20 3. Subsections 1 and 2 do not apply to elder or dependent  
21 adult abuse information that is disseminated to an employee of  
22 the department or to the attorney representing the department  
23 as authorized by section 235B.6.

24 Sec. 9. Section 235B.8, Code 2014, is amended to read as  
25 follows:

26 **235B.8 Redissemination of elder or dependent adult abuse**  
27 **information.**

28 1. A recipient of elder or dependent adult abuse information  
29 authorized to receive the information shall not redisseminate  
30 the information, except that redissemination shall be permitted  
31 when all of the following conditions apply:

32 a. The redissemination is for official purposes in  
33 connection with prescribed duties or, in the case of a health  
34 practitioner, pursuant to professional responsibilities.

35 b. The person to whom such information would be



1 redisseminated would have independent access to the same  
2 information under section 235B.6.

3     *c.* A written record is made of the redissemination,  
4 including the name of the recipient and the date and purpose  
5 of the redissemination.

6     *d.* The written record is forwarded to the registry within  
7 thirty days of the redissemination.

8     2. The department may notify, orally, the mandatory  
9 reporter in an individual elder or dependent adult abuse  
10 case of the results of the case investigation and of the  
11 confidentiality provisions of sections 235B.6 and 235B.12.  
12 The department shall subsequently transmit a written notice  
13 to the mandatory reporter of the results and confidentiality  
14 provisions. A copy of the written notice shall be transmitted  
15 to the registry and shall be maintained by the registry as  
16 provided in section 235B.9.

17     Sec. 10. Section 235B.9, Code 2014, is amended to read as  
18 follows:

19     **235B.9 Sealing and expungement of elder or dependent adult**  
20 **abuse information.**

21     1. ~~Dependent~~ Elder and dependent adult abuse information  
22 which is determined by a preponderance of the evidence to  
23 be founded, shall be sealed ten years after the receipt of  
24 the initial report of such abuse by the registry unless good  
25 cause is shown why the information should remain open to  
26 authorized access. If a subsequent report of founded elder  
27 or dependent adult abuse involving the elder or dependent  
28 adult named in the initial report as the victim of abuse or  
29 a person named in such report as having abused an elder or a  
30 dependent adult is received by the registry within the ten-year  
31 period, the information shall be sealed ten years after receipt  
32 of the subsequent report unless good cause is shown why the  
33 information should remain open to authorized access.

34     2. *a.* ~~Dependent~~ Elder or dependent adult abuse reports  
35 that are rejected for evaluation, assessment, or disposition

1 for failure to meet the definition of elder or dependent adult  
2 abuse shall be expunged three years from the rejection date.

3     ~~b. Dependent Elder~~ or dependent adult abuse information  
4 which is determined by a preponderance of the evidence to be  
5 unfounded shall be expunged five years from the date it is  
6 determined to be unfounded.

7     3. However, if a correction of elder or dependent adult  
8 abuse information is requested under section 235B.10 and the  
9 issue is not resolved at the end of one year the information  
10 shall be retained until the issue is resolved and if the elder  
11 or dependent adult abuse information is not determined to be  
12 founded, the information shall be expunged one year from the  
13 date it is determined to be unfounded.

14     4. The registry, at least annually, shall review and  
15 determine the current status of elder or dependent adult abuse  
16 reports which are at least one year old and in connection with  
17 which no investigatory report has been filed by the department.  
18 If no investigatory report has been filed, the registry shall  
19 request the department to file a report. If a report is not  
20 filed within ninety days subsequent to a request, the report  
21 and relative information shall be sealed and remain sealed  
22 unless good cause is shown why the information should remain  
23 open to authorized access.

24     5. ~~Dependent Elder~~ or dependent adult abuse information  
25 which is determined to be minor, isolated, and unlikely to  
26 reoccur shall be expunged five years after the receipt of the  
27 initial report by the department. If a subsequent report of  
28 elder or dependent adult abuse committed by the ~~caretaker~~  
29 person responsible for the act or omission which was the  
30 subject of the previous report of elder or dependent adult  
31 abuse which the department determined was minor, isolated, and  
32 unlikely to reoccur is received by the department within the  
33 five-year period, the information shall be sealed ten years  
34 after receipt of the subsequent report unless good cause can  
35 be shown why the information should remain open to authorized

1 access.

2 Sec. 11. Section 235B.10, Code 2014, is amended to read as  
3 follows:

4 **235B.10 Examination, requests for correction or expungement**  
5 **and appeal.**

6 1. Any person or that person's attorney shall have the  
7 right to examine elder and dependent adult abuse information  
8 in the registry which refers to that person. The registry may  
9 prescribe reasonable hours and places of examination.

10 2. A person may file with the department within six months  
11 of the date of the notice of the results of an investigation,  
12 a written statement to the effect that elder or dependent  
13 adult abuse information referring to the person is in whole  
14 or in part erroneous, and may request a correction of that  
15 information or of the findings of the investigation report.  
16 The department shall provide the person with an opportunity for  
17 an evidentiary hearing pursuant to chapter 17A to correct the  
18 information or the findings, unless the department corrects the  
19 information or findings as requested. The department shall  
20 delay the expungement of information which is not determined  
21 to be founded until the conclusion of a proceeding to correct  
22 the information or findings. The department may defer the  
23 hearing until the conclusion of a court case relating to the  
24 information or findings.

25 3. The decision resulting from the hearing may be appealed  
26 to the court of Polk county by the person requesting the  
27 correction or to the court of the district in which the person  
28 resides. Immediately upon appeal the court shall order the  
29 department to file with the court a certified copy of the elder  
30 or dependent adult abuse information. Appeal shall be taken  
31 in accordance with chapter 17A.

32 4. Upon the request of the appellant, the record and  
33 evidence in such cases shall be closed to all but the court  
34 and its officers, and access to the record and evidence shall  
35 be prohibited unless otherwise ordered by the court. The

1 clerk shall maintain a separate docket for such actions. A  
2 person other than the appellant shall not permit a copy of  
3 the testimony or pleadings or the substance of the testimony  
4 or pleadings to be made available to any person other than a  
5 party to the action or the party's attorney. Violation of  
6 the provisions of this subsection shall be a public offense  
7 punishable under section 235B.12.

8 5. If the registry corrects or eliminates information as  
9 requested or as ordered by the court, the registry shall advise  
10 all persons who have received the incorrect information of the  
11 fact. Upon application to the court and service of notice on  
12 the registry, ~~an individual~~ a person may request and obtain a  
13 list of all persons who have received elder or dependent adult  
14 abuse information referring to the ~~individual~~ person.

15 6. In the course of any proceeding provided for by this  
16 section, the identity of the person who reported the disputed  
17 information and the identity of any person who has been  
18 reported as having abused an elder or a dependent adult may be  
19 withheld upon a determination by the registry that disclosure  
20 of the person's identity would be detrimental to the person's  
21 interest.

22 Sec. 12. Section 235B.11, Code 2014, is amended to read as  
23 follows:

24 **235B.11 Civil remedy.**

25 Any aggrieved person may institute a civil action  
26 for damages under chapter 669 or 670 or to restrain the  
27 dissemination of elder or dependent adult abuse information  
28 in violation of this chapter, and any person proven to have  
29 disseminated or to have requested and received elder or  
30 dependent adult abuse information in violation of this chapter  
31 shall be liable for actual damages and exemplary damages for  
32 each violation and shall be liable for court costs, expenses,  
33 and reasonable attorney's fees incurred by the party bringing  
34 the action. In no case shall the award for damages be less than  
35 five hundred dollars.

1     Sec. 13. Section 235B.12, Code 2014, is amended to read as  
2 follows:

3     **235B.12 Criminal penalties.**

4     1. Any person who willfully requests, obtains, or seeks  
5 to obtain elder or dependent adult abuse information under  
6 false pretenses, or who willfully communicates or seeks to  
7 communicate elder or dependent adult abuse information to  
8 any person except in accordance with sections 235B.6 through  
9 235B.8, or any person connected with any research authorized  
10 pursuant to section 235B.6 who willfully falsifies elder or  
11 dependent adult abuse information or any records relating to  
12 the information is guilty of a serious misdemeanor. Any person  
13 who knowingly, but without criminal purposes, communicates or  
14 seeks to communicate elder or dependent adult abuse information  
15 except in accordance with sections 235B.6 through 235B.8 is  
16 guilty of a simple misdemeanor.

17     2. Any reasonable grounds for belief that a person has  
18 violated any provision of this chapter is grounds for the  
19 immediate withdrawal of any authorized access the person might  
20 otherwise have to elder or dependent adult abuse information.

21     Sec. 14. Section 235B.13, Code 2014, is amended to read as  
22 follows:

23     **235B.13 Registry reports.**

24     1. The registry may compile statistics, conduct research,  
25 and issue reports on elder and dependent adult abuse, provided  
26 identifying details of the subjects of elder or dependent adult  
27 abuse reports are deleted from any report issued.

28     2. The registry shall issue an annual report on its  
29 administrative operation, including information as to the  
30 number of requests for elder or dependent adult abuse data, the  
31 proportion of requests attributable to each type of authorized  
32 access, the frequency and nature of irregularities, and other  
33 pertinent matters.

34     Sec. 15. Section 235B.16, Code 2014, is amended to read as  
35 follows:

1     **235B.16 Information, education, and training requirements.**

2     1. The department on aging, in cooperation with the  
3 department, shall conduct a public information and education  
4 program. The elements and goals of the program include but are  
5 not limited to:

6     a. Informing the public regarding the laws governing elder  
7 and dependent adult abuse and the reporting requirements for  
8 dependent adult abuse.

9     b. Providing caretakers with information regarding services  
10 to alleviate the emotional, psychological, physical, or  
11 financial stress associated with the caretaker and elder or  
12 dependent adult relationship.

13     c. Affecting public attitudes regarding the role of an elder  
14 or a dependent adult in society.

15     2. The department, in cooperation with the department on  
16 aging and the department of inspections and appeals, shall  
17 institute a program of education and training for persons,  
18 including members of provider groups and family members, who  
19 may come in contact with elder or dependent adult abuse.  
20 The program shall include but is not limited to instruction  
21 regarding recognition of elder and dependent adult abuse and  
22 the procedure for the reporting of suspected abuse.

23     3. The content of the continuing education required  
24 pursuant to chapter 272C for a licensed professional providing  
25 care or service to an elder or a dependent adult shall include,  
26 but is not limited to, the responsibilities, obligations,  
27 powers, and duties of a person regarding the reporting of  
28 suspected elder or dependent adult abuse, and training to aid  
29 the professional in identifying instances of elder or dependent  
30 adult abuse.

31     4. The department of inspections and appeals shall provide  
32 training to investigators regarding the collection and  
33 preservation of evidence in the case of suspected elder or  
34 dependent adult abuse.

35     5. a. For the purposes of this subsection, "*licensing*

1 *board* means a board designated in section 147.13, the board of  
2 educational examiners created in section 272.2, or a licensing  
3 board as defined in section 272C.1.

4     *b.* A person required to report cases of elder or dependent  
5 adult abuse pursuant to sections 235B.3 and 235E.2, other than  
6 a physician whose professional practice does not regularly  
7 involve providing primary health care to adults, shall complete  
8 two hours of training relating to the identification and  
9 reporting of elder or dependent adult abuse within six months  
10 of initial employment or self-employment which involves the  
11 examination, attending, counseling, or treatment of adults on  
12 a regular basis. Within one month of initial employment or  
13 self-employment, the person shall obtain a statement of the  
14 elder and dependent adult abuse reporting requirements from the  
15 person's employer or, if self-employed, from the department.  
16 The person shall complete at least two hours of additional  
17 elder and dependent adult abuse identification and reporting  
18 training every five years.

19     *c.* If the person is an employee of a hospital or similar  
20 public or private facility, the employer shall be responsible  
21 for providing the training. To the extent that the employer  
22 provides approved training on the employer's premises, the  
23 hours of training completed by employees shall be included in  
24 the calculation of nursing or service hours required to be  
25 provided to a patient or resident per day. If the person is  
26 self-employed, employed in a licensed or certified profession,  
27 or employed by a facility or program that is subject to  
28 licensure, regulation, or approval by a state agency, the  
29 person shall obtain the training as provided in paragraph "*d*".

30     *d.* The person may complete the initial or additional  
31 training requirements as a part of any of the following that  
32 are applicable to the person:

33         (1) A continuing education program required under chapter  
34 272C and approved by the appropriate licensing board.

35         (2) A training program using a curriculum approved by the

1 director of public health pursuant to section 135.11.

2 (3) A training program using such an approved curriculum  
3 offered by the department of human services, the department on  
4 aging, the department of inspections and appeals, the Iowa law  
5 enforcement academy, or a similar public agency.

6 e. A person required to complete both child abuse and elder  
7 and dependent adult abuse mandatory reporter training may  
8 complete the training through a program which combines child  
9 abuse and elder and dependent adult abuse curricula and thereby  
10 meet the training requirements of both this subsection and  
11 section 232.69 simultaneously. A person who is a mandatory  
12 reporter for both child abuse and elder and dependent adult  
13 abuse may satisfy the combined training requirements of this  
14 subsection and section 232.69 through completion of a two-hour  
15 training program, if the training program curriculum is  
16 approved by the appropriate licensing board or the director of  
17 public health pursuant to section 135.11.

18 f. A licensing board with authority over the license of a  
19 person required to report cases of elder and dependent adult  
20 abuse pursuant to sections 235B.3 and 235E.2 shall require as a  
21 condition of licensure that the person is in compliance with  
22 the requirements for abuse training under this subsection.  
23 The licensing board shall require the person upon licensure  
24 renewal to accurately document for the licensing board the  
25 person's completion of the training requirements. However,  
26 the licensing board may adopt rules providing for waiver or  
27 suspension of the compliance requirements, if the waiver or  
28 suspension is in the public interest, applicable to a person  
29 who is engaged in active duty in the military service of this  
30 state or of the United States, to a person for whom compliance  
31 with the training requirements would impose a significant  
32 hardship, or to a person who is practicing a licensed  
33 profession outside this state or is otherwise subject to  
34 circumstances that would preclude the person from encountering  
35 elder or dependent adult abuse in this state.



1     *g.* For persons required to report cases of elder and  
2 dependent adult abuse pursuant to sections 235B.3 and 235E.2,  
3 who are not engaged in a licensed profession that is subject  
4 to the authority of a licensing board but are employed by  
5 a facility or program subject to licensure, registration,  
6 or approval by a state agency, the agency shall require as  
7 a condition of the renewal of the facility's or program's  
8 licensure, registration, or approval, that such persons  
9 employed by the facility or program are in compliance with the  
10 training requirements of this subsection.

11    *h.* For peace officers, the elected or appointed official  
12 designated as the head of the agency employing the peace  
13 officer shall ensure compliance with the training requirements  
14 of this subsection.

15    *i.* For persons required to report cases of elder and  
16 dependent adult abuse pursuant to sections 235B.3 and  
17 235E.2 who are employees of state departments and political  
18 subdivisions of the state, the department director or the chief  
19 administrator of the political subdivision shall ensure the  
20 persons' compliance with the training requirements of this  
21 subsection.

22    6. The department shall require an educational program for  
23 employees of the registry on the proper use and control of  
24 elder and dependent adult abuse information.

25    Sec. 16. Section 235B.16A, subsection 1, Code 2014, is  
26 amended to read as follows:

27    1. The elder and dependent adult protective advisory  
28 council established pursuant to section 235B.1 shall recommend  
29 a uniform assessment instrument and process for adoption and  
30 use by the department of human services and other agencies  
31 involved with assessing a dependent adult's degree of  
32 dependency and determining whether dependent adult abuse has  
33 occurred. However, this section shall not apply to dependent  
34 adult abuse assessments and determinations made under chapter  
35 235E.

1     Sec. 17. Section 235B.17, Code 2014, is amended to read as  
2 follows:

3     **235B.17 Provision of protective services with the consent of**  
4 **elder or dependent adult — caretaker refusal.**

5     1. If a caretaker of an elder or a dependent adult, who  
6 consents to the receipt of protective services, refuses to  
7 allow provision of the services, the department may petition  
8 the court with probate jurisdiction in the county in which the  
9 elder or dependent adult resides for an order enjoining the  
10 caretaker from interfering with the provision of services.

11    2. The petition shall be verified and shall allege specific  
12 facts sufficient to demonstrate that the elder or dependent  
13 adult is in need of protective services and consents to the  
14 provision of services and that the caretaker refuses to allow  
15 provision of the services. The petition shall include all of  
16 the following:

17    a. The name, date of birth, and address of the elder or  
18 dependent adult alleged to be in need of protective services.

19    b. The protective services required.

20    c. The name and address of the caretaker refusing to allow  
21 the provision of services.

22    3. The court shall set the case for hearing within fourteen  
23 days of the filing of the petition. The elder or dependent  
24 adult and the caretaker refusing to allow the provision of  
25 services shall receive at least five days' notice of the  
26 hearing.

27    4. If the judge finds by clear and convincing evidence that  
28 the elder or dependent adult is in need of protective services  
29 and consents to the services and that the caretaker refuses to  
30 allow the services, the judge may issue an order enjoining the  
31 caretaker from interfering with the provision of the protective  
32 services.

33     Sec. 18. Section 235B.18, Code 2014, is amended to read as  
34 follows:

35     **235B.18 Provision of services to elder or dependent adult who**

1 lacks capacity to consent — hearing — findings.

2 1. If the department reasonably determines that an elder or  
3 a dependent adult is a victim of elder or dependent adult abuse  
4 and lacks capacity to consent to the receipt of protective  
5 services, the department may petition the district court in the  
6 county in which the elder or dependent adult resides for an  
7 order authorizing the provision of protective services. The  
8 petition shall allege specific facts sufficient to demonstrate  
9 that the elder or dependent adult is in need of protective  
10 services and lacks capacity to consent to the receipt of  
11 services.

12 2. The petition specified in subsection 1 shall be verified  
13 and shall include all of the following:

14 a. The name, date of birth, and address of the elder or  
15 dependent adult alleged to be in need of protective services.

16 b. The nature of the elder or dependent adult abuse.

17 c. The protective services required.

18 3. The court shall set the case for hearing within fourteen  
19 days of the filing of the petition. The elder or dependent  
20 adult shall receive at least five days' notice of the hearing.  
21 The elder or dependent adult has the right to be present  
22 and represented by counsel at the hearing. If the elder or  
23 dependent adult, in the determination of the judge, lacks the  
24 capacity to waive the right of counsel, the court may appoint a  
25 guardian ad litem for the elder or dependent adult.

26 4. If, at the hearing, the judge finds by clear and  
27 convincing evidence that the elder or dependent adult is in  
28 need of protective services and lacks the capacity to consent  
29 to the receipt of protective services, the judge may issue an  
30 order authorizing the provision of protective services. The  
31 order may include the designation of a person to be responsible  
32 for performing or obtaining protective services on behalf  
33 of the elder or dependent adult or otherwise consenting to  
34 the receipt of protective services on behalf of the elder or  
35 dependent adult. Within sixty days of the appointment of such

1 a person the court shall conduct a review to determine if a  
 2 petition shall be initiated in accordance with section 633.552  
 3 for good cause shown. The court may extend the sixty-day  
 4 period for an additional sixty days, at the end of which the  
 5 court shall conduct a review to determine if a petition shall  
 6 be initiated in accordance with section 633.552. A An elder  
 7 or a dependent adult shall not be committed to a mental health  
 8 facility under this section.

9 5. A determination by the court that an elder or a  
 10 dependent adult lacks the capacity to consent to the receipt  
 11 of protective services under this chapter shall not affect  
 12 incompetency proceedings under sections 633.552 through 633.556  
 13 or any other proceedings, and incompetency proceedings under  
 14 sections 633.552 through 633.556 shall not have a conclusive  
 15 effect on the question of capacity to consent to the receipt of  
 16 protective services under this chapter. A person previously  
 17 adjudicated as incompetent under the relevant provisions of  
 18 chapter 633 is entitled to the care, protection, and services  
 19 under this chapter.

20 6. This section shall not be construed and is not intended  
 21 as and shall not imply a grant of entitlement for services to  
 22 persons who are not otherwise eligible for the services or for  
 23 utilization of services which do not currently exist or are not  
 24 otherwise available.

25 Sec. 19. Section 235B.19, Code 2014, is amended to read as  
 26 follows:

27 **235B.19 Emergency order for protective services.**

28 1. If the department determines that an elder or a dependent  
 29 adult is suffering from elder or dependent adult abuse which  
 30 presents an immediate danger to the health or safety of the  
 31 elder or dependent adult or which results in irreparable harm  
 32 to the ~~physical or financial resources or funds,~~ property, or  
 33 assets of the elder or dependent adult, and that the elder or  
 34 dependent adult lacks capacity to consent to receive protective  
 35 services and that no consent can be obtained, the department

1 may petition the court with probate jurisdiction in the county  
2 in which the elder or dependent adult resides for an emergency  
3 order authorizing protective services.

4 2. The petition shall be verified and shall include all of  
5 the following:

6 a. The name, date of birth, and address of the elder or  
7 dependent adult who needs protective services.

8 b. The nature of the elder or dependent adult abuse.

9 c. The services required.

10 3. a. The department shall serve a copy of the petition  
11 and any order authorizing protective services, if issued, on  
12 the elder or dependent adult and on persons who are competent  
13 adults and reasonably ascertainable at the time the petition is  
14 filed in accordance with the following priority, as applicable:

15 (1) An attorney in fact named by the elder or dependent  
16 adult in a durable power of attorney for health care pursuant  
17 to chapter 144B.

18 (2) The elder's or dependent adult's spouse.

19 (3) The elder's or dependent adult's children.

20 (4) The elder's or dependent adult's grandchildren.

21 (5) The elder's or dependent adult's siblings.

22 (6) The elder's or dependent adult's aunts and uncles.

23 (7) The elder's or dependent adult's nieces and nephews.

24 (8) The elder's or dependent adult's cousins.

25 b. When the department has served a person in one of the  
26 categories specified in paragraph "a", the department shall not  
27 be required to serve a person in any other category.

28 c. The department shall serve the elder's or dependent  
29 adult's copy of the petition and order personally upon the  
30 elder or dependent adult. Service of the petition and all  
31 other orders and notices shall be in a sealed envelope with the  
32 proper postage on the envelope, addressed to the person being  
33 served at the person's last known post office address, and  
34 deposited in a mail receptacle provided by the United States  
35 postal service. The department shall serve such copies of

1 emergency orders authorizing protective services and notices  
2 within three days after filing the petition and receiving such  
3 orders.

4 *d.* The department and all persons served by the department  
5 with notices under this subsection shall be prohibited from  
6 all of the following without prior court approval after the  
7 department's petition has been filed:

8 (1) Selling, removing, or otherwise disposing of the  
9 elder's or dependent adult's personal property.

10 (2) Withdrawing funds from any bank, savings association,  
11 credit union, or other financial institution, or from an  
12 account containing securities in which the elder or dependent  
13 adult has an interest.

14 4. Upon finding that there is probable cause to believe that  
15 the elder or dependent adult abuse presents an immediate threat  
16 to the health or safety of the elder or dependent adult or  
17 which results in irreparable harm to the physical or financial  
18 resources or property of the elder or dependent adult, and that  
19 the elder or dependent adult lacks capacity to consent to the  
20 receipt of services, the court may do any of the following:

21 *a.* Order removal of the elder or dependent adult to safer  
22 surroundings.

23 *b.* Order the provision of medical services.

24 *c.* Order the provision of other available services necessary  
25 to remove conditions creating the danger to health or safety,  
26 including the services of peace officers or emergency services  
27 personnel and the suspension of the powers granted to a  
28 guardian or conservator and the subsequent appointment of a  
29 new temporary guardian or new temporary conservator pursuant  
30 to subsection 5 pending a decision by the court on whether  
31 the powers of the initial guardian or conservator should be  
32 reinstated or whether the initial guardian or conservator  
33 should be removed.

34 5. *a.* Notwithstanding sections 633.552 and 633.573, upon  
35 a finding that there is probable cause to believe that the

1 elder or dependent adult abuse presents an immediate danger  
 2 to the health or safety of the elder or dependent adult or  
 3 is producing irreparable harm to the physical or financial  
 4 resources or property of the elder or dependent adult, and that  
 5 the elder or dependent adult lacks capacity to consent to the  
 6 receipt of services, the court may order the appointment of  
 7 a temporary guardian or temporary conservator without notice  
 8 to the elder or dependent adult or the elder's or dependent  
 9 adult's attorney if all of the following conditions are met:

10 (1) It clearly appears from specific facts shown by  
 11 affidavit or by the verified petition that an elder's or a  
 12 dependent adult's decision-making capacity is so impaired that  
 13 the elder or dependent adult is unable to care for the elder's  
 14 or dependent adult's personal safety or to attend to or provide  
 15 for the elder's or dependent adult's basic necessities or that  
 16 immediate and irreparable injury, loss, or damage will result  
 17 to the physical or financial resources or property of the  
 18 elder or dependent adult before the elder or dependent adult  
 19 or the elder's or dependent adult's attorney can be heard in  
 20 opposition.

21 (2) The department certifies to the court in writing  
 22 any efforts the department has made to give the notice or  
 23 the reasons supporting the claim that notice should not be  
 24 required.

25 (3) The department files with the court a request for a  
 26 hearing on the petition for the appointment of a temporary  
 27 guardian or temporary conservator.

28 (4) The department certifies that the notice of the  
 29 petition, order, and all filed reports and affidavits will be  
 30 sent to the elder or dependent adult by personal service within  
 31 the time period the court directs but not more than seventy-two  
 32 hours after entry of the order of appointment.

33 *b.* An order of appointment of a temporary guardian or  
 34 temporary conservator entered by the court under paragraph "a"  
 35 shall expire as prescribed by the court but within a period of

1 not more than thirty days unless extended by the court for good  
2 cause.

3     *c.* A hearing on the petition for the appointment of a  
4 temporary guardian or temporary conservator shall be held  
5 within the time specified in paragraph "*b*". If the department  
6 does not proceed with a hearing on the petition, the court, on  
7 the motion of any party or on its own motion, may dismiss the  
8 petition.

9     6. The emergency order expires at the end of seventy-two  
10 hours from the time of the order unless the seventy-two-hour  
11 period ends on a Saturday, Sunday, or legal holiday in which  
12 event the order is automatically extended to 4:00 p.m. on the  
13 first succeeding business day. An order may be renewed for  
14 not more than fourteen additional days. A renewal order that  
15 ends on a Saturday, Sunday, or legal holiday is automatically  
16 extended to 4:00 p.m. on the first succeeding business day.  
17 The court may modify or terminate the emergency order on the  
18 petition of the department, the elder or dependent adult, or  
19 any person interested in the elder's or dependent adult's  
20 welfare.

21     7. If the department cannot obtain an emergency order  
22 under this section due to inaccessibility of the court, the  
23 department may contact law enforcement to remove the elder or  
24 dependent adult to safer surroundings, authorize the provision  
25 of medical treatment, and order the provision of or provide  
26 other available services necessary to remove conditions  
27 creating the immediate danger to the health or safety of the  
28 elder or dependent adult or which are producing irreparable  
29 harm to the physical or financial resources or property of  
30 the elder or dependent adult. The department shall obtain an  
31 emergency order under this section not later than four p.m.  
32 on the first succeeding business day after the date on which  
33 protective or other services are provided. If the department  
34 does not obtain an emergency order within the prescribed  
35 time period, the department shall cease providing protective



1 services and, if necessary, make arrangements for the immediate  
 2 return of the person to the place from which the person was  
 3 removed, to the person's place of residence in the state, or  
 4 to another suitable place. A person, agency, or institution  
 5 acting in good faith in removing an elder or a dependent adult  
 6 or in providing services under this subsection, and an employer  
 7 of or person under the direction of such a person, agency, or  
 8 institution, shall have immunity from any liability, civil or  
 9 criminal, that might otherwise be incurred or imposed as the  
 10 result of the removal or provision of services.

11 8. Upon a finding of probable cause to believe that elder  
 12 or dependent adult abuse has occurred and is either ongoing or  
 13 is likely to reoccur, the court may also enter orders as may  
 14 be appropriate to third persons enjoining them from specific  
 15 conduct. The orders may include temporary restraining orders  
 16 which impose criminal sanctions if violated. The court may  
 17 enjoin third persons from any of the following:

18 a. Removing the elder or dependent adult from the care or  
 19 custody of another.

20 b. Committing elder or dependent adult abuse on the elder  
 21 or dependent adult.

22 c. Living at the elder's or dependent adult's residence.

23 d. Contacting the elder or dependent adult in person or by  
 24 telephone.

25 e. Selling, removing, or otherwise disposing of the elder's  
 26 or dependent adult's personal property.

27 f. Withdrawing funds from any bank, savings association,  
 28 credit union, or other financial institution, or from a stock  
 29 account in which the elder or dependent adult has an interest.

30 g. Negotiating any instruments payable to the elder or  
 31 dependent adult.

32 h. Selling, mortgaging, or otherwise encumbering any  
 33 interest that the elder or dependent adult has in real  
 34 property.

35 i. Exercising any powers on behalf of the elder or

1 dependent adult through representatives of the department, any  
2 court-appointed guardian or guardian ad litem, or any official  
3 acting on the elder's or dependent adult's behalf.

4 *j.* Engaging in any other specified act which, based upon the  
5 facts alleged, would constitute harm or a threat of imminent  
6 harm to the elder or dependent adult or would cause damage to  
7 or the loss of the elder's or dependent adult's property.

8 9. This section shall not be construed and is not intended  
9 as and shall not imply a grant of entitlement for services to  
10 persons who are not otherwise eligible for the services or for  
11 utilization of services which do not currently exist or are not  
12 otherwise available.

13 DIVISION II

14 CRIMES AGAINST AN OLDER INDIVIDUAL

15 Sec. 20. NEW SECTION. 714.2A Theft against an older  
16 individual.

17 1. If a person commits theft and the violation is committed  
18 against an individual who was an older individual at the  
19 time the theft was committed, notwithstanding the penalties  
20 specified in section 714.2, all of the following shall apply:

21 *a.* If a person commits theft in the first degree pursuant to  
22 section 714.2, subsection 1, the person is guilty of a class  
23 "B" felony.

24 *b.* If a person commits theft in the second degree pursuant  
25 to section 714.2, subsection 2, the person is guilty of a class  
26 "C" felony.

27 *c.* If a person commits theft in the third degree pursuant to  
28 section 714.2, subsection 3, the person is guilty of a class  
29 "D" felony.

30 *d.* If a person commits theft in the fourth degree pursuant  
31 to section 714.2, subsection 4, the person is guilty of an  
32 aggravated misdemeanor.

33 *e.* If a person commits theft in the fifth degree pursuant to  
34 section 714.2, subsection 5, the person is guilty of a serious  
35 misdemeanor.

1     2. For the purposes of this section, "*older individual*"  
2 means older individual as defined in section 231.4.

3     Sec. 21. Section 714.16A, Code 2014, is amended to read as  
4 follows:

5     **714.16A Additional civil penalty for consumer frauds**  
6 **committed against ~~elderly~~ older individual — fund established.**

7     1. *a.* If a person violates section 714.16, and the  
8 violation is committed against an older ~~person~~ individual,  
9 in an action brought by the attorney general, in addition to  
10 any other civil penalty, the court may impose an additional  
11 civil penalty not to exceed five thousand dollars for each  
12 such violation. Additionally, the attorney general may  
13 accept a civil penalty as determined by the attorney general  
14 in settlement of an investigation of a violation of section  
15 714.16, regardless of whether an action has been filed pursuant  
16 to section 714.16.

17     *b.* A civil penalty imposed by a court or determined and  
18 accepted by the attorney general pursuant to this section shall  
19 be paid to the treasurer of state, who shall deposit the money  
20 in the ~~elderly~~ older individual victim fund, a separate fund  
21 created in the state treasury and administered by the attorney  
22 general for the investigation and prosecution of frauds against  
23 ~~the elderly~~ older individuals. Notwithstanding section 8.33,  
24 any balance in the fund on June 30 of any fiscal year shall  
25 not revert to the general fund of the state. An award of  
26 reimbursement pursuant to section 714.16 has priority over a  
27 civil penalty imposed by the court pursuant to this subsection.

28     2. In determining whether to impose a civil penalty under  
29 subsection 1, and the amount of any such penalty, the court  
30 shall consider the following:

31     *a.* Whether the defendant's conduct was in willful disregard  
32 of the rights of the older ~~person~~ individual.

33     *b.* Whether the defendant knew or should have known that the  
34 defendant's conduct was directed to an older ~~person~~ individual.

35     *c.* Whether the older ~~person~~ individual was substantially

1 more vulnerable to the defendant's conduct because of age, poor  
2 health, infirmity, impaired understanding, restricted mobility,  
3 or disability, than other persons.

4 *d.* Any other factors the court deems appropriate.

5 3. As used in this section, "~~older person~~ individual" means  
6 a person who is ~~sixty-five~~ sixty years of age or older.

7 Sec. 22. NEW SECTION. **726.25 Financial exploitation of an**  
8 **older individual.**

9 1. A person commits financial exploitation of an older  
10 individual when the person stands in a position of trust or  
11 confidence with the older individual and knowingly and by undue  
12 influence, deception, coercion, fraud, breach of fiduciary  
13 duty, or extortion, obtains control over or otherwise uses the  
14 benefits, property, resources, belongings, or assets of the  
15 older individual.

16 2. A person who commits financial exploitation of an older  
17 individual is guilty of the following, as applicable:

18 *a.* A serious misdemeanor if the value of the benefits,  
19 property, resources, belongings, or assets is one hundred  
20 dollars or less.

21 *b.* An aggravated misdemeanor if the value of the benefits,  
22 property, resources, belongings, or assets exceeds one hundred  
23 dollars but does not exceed one thousand dollars.

24 *c.* A class "D" felony if the value of the benefits,  
25 property, resources, belongings, or assets exceeds one thousand  
26 dollars but does not exceed ten thousand dollars.

27 *d.* A class "C" felony if the value of the benefits,  
28 property, resources, belongings, or assets exceeds ten thousand  
29 dollars but does not exceed fifty thousand dollars.

30 *e.* A class "B" felony if the value of the benefits,  
31 property, resources, belongings, or assets exceeds fifty  
32 thousand dollars, or if the older individual is seventy years  
33 of age to eighty years of age and the value of the benefits,  
34 property, resources, belongings, or assets is fifteen thousand  
35 dollars or more, or if the older individual is eighty years

1 of age or older and the value of the benefits, property,  
2 resources, belongings, or assets is five thousand dollars or  
3 more.

4 3. Nothing in this section shall be construed to limit other  
5 remedies available to the older individual.

6 4. A person alleged to have committed a violation under  
7 this section shall be charged with the respective offense  
8 cited, unless a charge may be brought based upon a more serious  
9 offense, in which case the charge of the more serious offense  
10 shall supersede the less serious charge.

11 5. Nothing in this section shall be construed to impose  
12 criminal liability on a person who has made a good-faith effort  
13 to assist an older individual in the management of the older  
14 individual's benefits, property, resources, belongings, or  
15 assets, but through no fault of the person, the person has been  
16 unable to provide such assistance.

17 6. It shall not be a defense to financial exploitation of  
18 an older individual that the alleged perpetrator did not know  
19 the age of the older individual or reasonably believed that the  
20 alleged victim was not an older individual.

21 7. For the purposes of this section:

22 a. "*Caregiver*" means an individual who has the  
23 responsibility for the care or custody of an older individual,  
24 whether voluntarily, by contract, through employment, or as a  
25 result of the operation of law, and includes but is not limited  
26 to a family member or other individual who provides compensated  
27 or uncompensated care to an older individual.

28 b. "*Coercion*" means communication or conduct which compels  
29 an older individual to act or refrain from acting against the  
30 older individual's will.

31 c. "*Fiduciary*" means a person or entity with the legal  
32 responsibility to make decisions on behalf of and for the  
33 benefit of an older individual and to act in good faith and  
34 with fairness. "*Fiduciary*" includes a guardian, trustee,  
35 executor, administrator, receiver, conservator, attorney

1 in fact, representative payee, or any person acting in any  
2 fiduciary capacity for or on behalf of an older individual.

3 *d. "Older individual"* means the same as defined in section  
4 231.4.

5 *e. "Stands in a position of trust or confidence"* means the  
6 person has any of the following relationships relative to the  
7 older individual:

8 (1) Is a parent, spouse, adult child, or other relative by  
9 consanguinity or affinity of the older individual.

10 (2) Is a joint tenant or tenant in common with the older  
11 individual.

12 (3) Has a legal or fiduciary relationship with the older  
13 individual.

14 (4) Is a financial planning or investment professional  
15 providing or offering to provide financial planning or  
16 investment advice to the older individual.

17 (5) Is a beneficiary of the older individual in a governing  
18 instrument.

19 (6) Is a caregiver for the older individual.

20 (7) Is a person who is in a confidential relationship with  
21 the older individual. The determination of the existence of a  
22 confidential relationship is an issue of fact to be determined  
23 by the court based upon the totality of the circumstances.

24 *f. "Undue influence"* means taking advantage of a person's  
25 role, relationship, or authority to improperly change or  
26 obtain control over the actions or decision making of an older  
27 individual.

28 DIVISION III

29 CONFORMING AMENDMENTS

30 Sec. 23. Section 35D.14A, Code 2014, is amended to read as  
31 follows:

32 **35D.14A Volunteer record checks.**

33 1. Persons who are potential volunteers or volunteers in  
34 the Iowa veterans home in a position having direct individual  
35 contact with patients or residents of the home shall be subject

1 to criminal history and child and elder and dependent adult  
2 abuse record checks in accordance with this section. The Iowa  
3 veterans home shall request that the department of public  
4 safety perform the criminal history check and the department  
5 of human services perform child and elder and dependent adult  
6 abuse record checks of the person in this state and may request  
7 these checks in other states.

8     2. a. If it is determined that a person has been convicted  
9 of a crime under a law of any state or has a record of founded  
10 child, elder, or dependent adult abuse, the person shall not  
11 participate as a volunteer with direct individual contact  
12 with patients or residents of the Iowa veterans home unless  
13 an evaluation has been performed by the department of human  
14 services to determine whether the crime or founded child,  
15 elder, or dependent adult abuse warrants prohibition of the  
16 person's participation as a volunteer in the Iowa veterans  
17 home. The department of human services shall perform such  
18 evaluation upon the request of the Iowa veterans home.

19     b. In an evaluation, the department of human services shall  
20 consider the nature and seriousness of the crime or founded  
21 child, elder, or dependent adult abuse in relation to the  
22 position sought or held, the time elapsed since the commission  
23 of the crime or founded child, elder, or dependent adult abuse,  
24 the circumstances under which the crime or founded child,  
25 elder, or dependent adult abuse was committed, the degree of  
26 rehabilitation, the likelihood that the person will commit the  
27 crime or founded child, elder, or dependent adult abuse again,  
28 and the number of crimes or founded child, elder, or dependent  
29 adult abuses committed by the person involved.

30     c. If the department of human services performs an  
31 evaluation for the purposes of this section, the department  
32 of human services has final authority in determining whether  
33 prohibition of the person's participation as a volunteer is  
34 warranted. The department of human services may permit a  
35 person who is evaluated to participate as a volunteer if the

1 person complies with the department's conditions relating to  
2 participation as a volunteer which may include completion of  
3 additional training.

4 Sec. 24. Section 125.14A, subsections 5 and 7, Code 2014,  
5 are amended to read as follows:

6 5. In addition to the record checks required under this  
7 section, the department of human services may conduct elder  
8 and dependent adult abuse record checks in this state and may  
9 conduct these checks in other states, on a random basis. The  
10 provisions of this section, relative to an evaluation following  
11 a determination that a person has been convicted of a crime  
12 or has a record of founded child abuse, shall also apply to a  
13 random check conducted under this subsection.

14 7. On or after July 1, 1994, a program or facility shall  
15 include the following inquiry in an application for employment:  
16 Do you have a record of founded child, elder, or dependent  
17 adult abuse or have you ever been convicted of a crime, in this  
18 state or any other state?

19 Sec. 25. Section 135.11, subsection 24, Code 2014, is  
20 amended to read as follows:

21 24. Review and approve mandatory reporter training  
22 curricula for those persons who work in a position  
23 classification that under law makes the persons mandatory  
24 reporters of child, elder, or dependent adult abuse and the  
25 position classification does not have a mandatory reporter  
26 training curriculum approved by a licensing or examining board.

27 Sec. 26. Section 135B.34, Code 2014, is amended to read as  
28 follows:

29 **135B.34 Hospital employees — criminal history and child,**  
30 **elder, and dependent adult abuse record checks — penalty.**

31 1. Prior to employment of a person in a hospital, the  
32 hospital shall request that the department of public safety  
33 perform a criminal history check and the department of human  
34 services perform child and elder and dependent adult abuse  
35 record checks of the person in this state. A hospital



1 shall inform all persons prior to employment regarding the  
2 performance of the record checks and shall obtain, from  
3 the persons, a signed acknowledgment of the receipt of the  
4 information. A hospital shall include the following inquiry in  
5 an application for employment:

6 Do you have a record of founded child, elder, or dependent  
7 adult abuse or have you ever been convicted of a crime, in this  
8 state or any other state?

9 2. a. If it is determined that a person being considered  
10 for employment in a hospital has committed a crime, the  
11 department of public safety shall notify the hospital that  
12 upon the request of the hospital the department of human  
13 services will perform an evaluation to determine whether the  
14 crime warrants prohibition of the person's employment in the  
15 hospital.

16 b. (1) If a person being considered for employment, other  
17 than employment involving the operation of a motor vehicle,  
18 has been convicted of a crime listed in subparagraph (2) but  
19 does not have a record of founded child, elder, or dependent  
20 adult abuse and the hospital has requested an evaluation in  
21 accordance with paragraph "a" to determine whether the crime  
22 warrants prohibition of the person's employment, the hospital  
23 may employ the person for not more than sixty calendar days  
24 pending completion of the evaluation.

25 (2) Subparagraph (1) applies to a crime that is a simple  
26 misdemeanor offense under section 123.47 or chapter 321, and  
27 to a crime that is a first offense of operating a motor vehicle  
28 while intoxicated under section 321J.2, subsection 1.

29 c. If a department of human services child or elder and  
30 dependent adult abuse record check shows that the person has  
31 a record of founded child, elder, or dependent adult abuse,  
32 the department of human services shall notify the hospital  
33 that upon the request of the hospital the department of human  
34 services will perform an evaluation to determine whether  
35 the founded child, elder, or dependent adult abuse warrants

1 prohibition of the person's employment in the hospital.

2     *d.* An evaluation performed under this subsection shall  
3 be performed in accordance with procedures adopted for this  
4 purpose by the department of human services.

5     *e.* (1) If a person owns or operates more than one hospital,  
6 and an employee of one of such hospitals is transferred to  
7 another such hospital without a lapse in employment, the  
8 hospital is not required to request additional criminal and  
9 child and elder and dependent adult abuse record checks of that  
10 employee.

11     (2) If the ownership of a hospital is transferred, at the  
12 time of transfer the record checks required by this section  
13 shall be performed for each employee for whom there is no  
14 documentation that such record checks have been performed.  
15 The hospital may continue to employ such employee pending the  
16 performance of the record checks and any related evaluation.

17     3. In an evaluation, the department of human services shall  
18 consider the nature and seriousness of the crime or founded  
19 child, elder, or dependent adult abuse in relation to the  
20 position sought or held, the time elapsed since the commission  
21 of the crime or founded child, elder, or dependent adult abuse,  
22 the circumstances under which the crime or founded child,  
23 elder, or dependent adult abuse was committed, the degree of  
24 rehabilitation, the likelihood that the person will commit  
25 the crime or founded child, elder, or dependent adult abuse  
26 again, and the number of crimes or founded child, elder, or  
27 dependent adult abuses committed by the person involved. If  
28 the department of human services performs an evaluation for  
29 the purposes of this section, the department of human services  
30 has final authority in determining whether prohibition of the  
31 person's employment is warranted.

32     4. *a.* Except as provided in paragraph "*b*" and subsection 2,  
33 a person who has committed a crime or has a record of founded  
34 child, elder, or dependent adult abuse shall not be employed in  
35 a hospital licensed under this chapter unless an evaluation has

1 been performed by the department of human services.

2     *b.* A person with a criminal or child, elder, or dependent  
3 adult abuse record who is or was employed by a hospital  
4 licensed under this chapter and is hired by another hospital  
5 shall be subject to the criminal history and child or elder  
6 and dependent adults abuse record checks required pursuant  
7 to subsection 1. However, if an evaluation was previously  
8 performed by the department of human services concerning the  
9 person's criminal or child, elder, or dependent adult abuse  
10 record and it was determined that the record did not warrant  
11 prohibition of the person's employment and the latest record  
12 checks do not indicate a crime was committed or founded child,  
13 elder, or dependent adult abuse record was entered subsequent  
14 to that evaluation, the person may commence employment with  
15 the other hospital in accordance with the department of human  
16 services' evaluation and an exemption from the requirements  
17 in paragraph "a" for reevaluation of the latest record checks  
18 is authorized. Otherwise, the requirements of paragraph "a"  
19 remain applicable to the person's employment. Authorization  
20 of an exemption under this paragraph "b" from requirements for  
21 reevaluation of the latest record checks by the department of  
22 human services is subject to all of the following provisions:

23     (1) The position with the subsequent employer is  
24 substantially the same or has the same job responsibilities as  
25 the position for which the previous evaluation was performed.

26     (2) Any restrictions placed on the person's employment in  
27 the previous evaluation by the department of human services  
28 shall remain applicable in the person's subsequent employment.

29     (3) The person subject to the record checks has maintained a  
30 copy of the previous evaluation and provides the evaluation to  
31 the subsequent employer or the previous employer provides the  
32 previous evaluation from the person's personnel file pursuant  
33 to the person's authorization. If a physical copy of the  
34 previous evaluation is not provided to the subsequent employer,  
35 the record checks shall be reevaluated.

1     (4) Although an exemption under this lettered paragraph "b"  
2 may be authorized, the subsequent employer may instead request  
3 a reevaluation of the record checks and may employ the person  
4 while the reevaluation is being performed.

5     5. a. If a person employed by a hospital that is subject  
6 to this section is convicted of a crime or has a record of  
7 founded child, elder, or dependent adult abuse entered in  
8 the abuse registry after the person's employment application  
9 date, the person shall inform the hospital of such information  
10 within forty-eight hours of the criminal conviction or entry  
11 of the record of founded child, elder, or dependent adult  
12 abuse. The hospital shall act to verify the information  
13 within forty-eight hours of notification. If the information  
14 is verified, the requirements of subsections 2, 3, and 4  
15 regarding employability and evaluations shall be applied by the  
16 hospital to determine whether or not the person's employment  
17 is continued. The hospital may continue to employ the person  
18 pending the performance of an evaluation by the department of  
19 human services to determine whether prohibition of the person's  
20 employment is warranted. A person who is required by this  
21 subsection to inform the person's employer of a conviction or  
22 entry of an abuse record and fails to do so within the required  
23 period commits a serious misdemeanor.

24     b. If a hospital receives credible information, as  
25 determined by the hospital, that a person employed by the  
26 hospital has been convicted of a crime or a record of founded  
27 child, elder, or dependent adult abuse has been entered in the  
28 abuse registry after employment from a person other than the  
29 employee and the employee has not informed the hospital of such  
30 information within the period required under paragraph "a", the  
31 hospital shall act to verify the credible information within  
32 forty-eight hours of receipt of the credible information. If  
33 the information is verified, the requirements of subsections  
34 2, 3, and 4 regarding employability and evaluations shall  
35 be applied by the hospital to determine whether or not the

1 person's employment is continued.

2     c. The hospital may notify the county attorney for the  
3 county where the hospital is located of any violation or  
4 failure by an employee to notify the hospital of a criminal  
5 conviction or entry of an a child, elder, or dependent adult  
6 abuse record within the period required under paragraph "a".

7     6. A hospital licensed in this state may access the single  
8 contact repository established by the department pursuant to  
9 section 135C.33 as necessary for the hospital to perform record  
10 checks of persons employed or being considered for employment  
11 by the hospital.

12     Sec. 27. Section 135C.33, Code 2014, is amended to read as  
13 follows:

14     **135C.33 Employees and certified nurse aide trainees — child**  
15 **or, elder, and dependent adult abuse information and criminal**  
16 **record checks — evaluations — application to other providers**  
17 **— penalty.**

18     1. a. For the purposes of this section, the term "*crime*"  
19 does not include offenses under chapter 321 classified as a  
20 simple misdemeanor or equivalent simple misdemeanor offenses  
21 from another jurisdiction.

22     b. Prior to employment of a person in a facility, the  
23 facility shall request that the department of public safety  
24 perform a criminal history check and the department of human  
25 services perform child and elder and dependent adult abuse  
26 record checks of the person in this state. A facility  
27 shall inform all persons prior to employment regarding the  
28 performance of the record checks and shall obtain, from  
29 the persons, a signed acknowledgment of the receipt of the  
30 information. A facility shall include the following inquiry in  
31 an application for employment:

32     Do you have a record of founded child, elder, or dependent  
33 adult abuse or have you ever been convicted of a crime  
34 other than a simple misdemeanor offense relating to motor  
35 vehicles and laws of the road under chapter 321 or equivalent

1 provisions, in this state or any other state?

2 2. a. If it is determined that a person being considered  
3 for employment in a facility has been convicted of a crime  
4 under a law of any state, the department of public safety shall  
5 notify the licensee that upon the request of the licensee  
6 the department of human services will perform an evaluation  
7 to determine whether the crime warrants prohibition of the  
8 person's employment in the facility.

9 b. (1) If a person being considered for employment, other  
10 than employment involving the operation of a motor vehicle,  
11 has been convicted of a crime listed in subparagraph (2) but  
12 does not have a record of founded child, elder, or dependent  
13 adult abuse and the licensee has requested an evaluation in  
14 accordance with paragraph "a" to determine whether the crime  
15 warrants prohibition of the person's employment, the licensee  
16 may employ the person for not more than sixty calendar days  
17 pending completion of the evaluation.

18 (2) Subparagraph (1) applies to a crime that is a simple  
19 misdemeanor offense under section 123.47 or chapter 321, and  
20 to a crime that is a first offense of operating a motor vehicle  
21 while intoxicated under section 321J.2, subsection 1.

22 c. If a department of human services child or elder and  
23 dependent adult abuse record check shows that such person has  
24 a record of founded child, elder, or dependent adult abuse,  
25 the department of human services shall notify the licensee  
26 that upon the request of the licensee the department of human  
27 services will perform an evaluation to determine whether  
28 the founded child, elder, or dependent adult abuse warrants  
29 prohibition of employment in the facility.

30 d. An evaluation performed under this subsection shall  
31 be performed in accordance with procedures adopted for this  
32 purpose by the department of human services.

33 e. (1) If a person owns or operates more than one facility,  
34 and an employee of one of such facilities is transferred to  
35 another such facility without a lapse in employment, the

1 facility is not required to request additional criminal and  
2 child and elder and dependent adult abuse record checks of that  
3 employee.

4 (2) If the ownership of a facility is transferred, at the  
5 time of transfer the record checks required by this section  
6 shall be performed for each employee for whom there is no  
7 documentation that such record checks have been performed.  
8 The facility may continue to employ such employee pending the  
9 performance of the record checks and any related evaluation.

10 3. In an evaluation, the department of human services shall  
11 consider the nature and seriousness of the crime or founded  
12 child, elder, or dependent adult abuse in relation to the  
13 position sought or held, the time elapsed since the commission  
14 of the crime or founded child, elder, or dependent adult abuse,  
15 the circumstances under which the crime or founded child,  
16 elder, or dependent adult abuse was committed, the degree of  
17 rehabilitation, the likelihood that the person will commit  
18 the crime or founded child, elder, or dependent adult abuse  
19 again, and the number of crimes or founded child, elder, or  
20 dependent adult abuses committed by the person involved. If  
21 the department of human services performs an evaluation for  
22 the purposes of this section, the department of human services  
23 has final authority in determining whether prohibition of the  
24 person's employment is warranted.

25 4. a. Except as provided in paragraph "b" and subsection 2,  
26 a person who has committed a crime or has a record of founded  
27 child, elder, or dependent adult abuse shall not be employed in  
28 a facility licensed under this chapter unless an evaluation has  
29 been performed by the department of human services.

30 b. A person with a criminal or child or elder and dependent  
31 adult abuse record who is or was employed by a facility  
32 licensed under this chapter and is hired by another licensee  
33 shall be subject to the criminal history and child or elder  
34 and dependent adult abuse record checks required pursuant  
35 to subsection 1. However, if an evaluation was previously

1 performed by the department of human services concerning  
2 the person's criminal or child or elder and dependent adult  
3 abuse record and it was determined that the record did not  
4 warrant prohibition of the person's employment and the  
5 latest record checks do not indicate a crime was committed or  
6 founded child or elder and dependent adult abuse record was  
7 entered subsequent to that evaluation, the person may commence  
8 employment with the other licensee in accordance with the  
9 department of human services' evaluation and an exemption from  
10 the requirements in paragraph "a" for reevaluation of the latest  
11 record checks is authorized. Otherwise, the requirements of  
12 paragraph "a" remain applicable to the person's employment.  
13 Authorization of an exemption under this paragraph "b" from  
14 requirements for reevaluation of the latest record checks by  
15 the department of human services is subject to all of the  
16 following provisions:

17 (1) The position with the subsequent employer is  
18 substantially the same or has the same job responsibilities as  
19 the position for which the previous evaluation was performed.

20 (2) Any restrictions placed on the person's employment in  
21 the previous evaluation by the department of human services  
22 shall remain applicable in the person's subsequent employment.

23 (3) The person subject to the record checks has maintained a  
24 copy of the previous evaluation and provides the evaluation to  
25 the subsequent employer or the previous employer provides the  
26 previous evaluation from the person's personnel file pursuant  
27 to the person's authorization. If a physical copy of the  
28 previous evaluation is not provided to the subsequent employer,  
29 the record checks shall be reevaluated.

30 (4) Although an exemption under this paragraph "b" may  
31 be authorized, the subsequent employer may instead request a  
32 reevaluation of the record checks and may employ the person  
33 while the reevaluation is being performed.

34 5. a. This section shall also apply to prospective  
35 employees of all of the following, if the provider is regulated



1 by the state or receives any state or federal funding:

2 (1) An employee of a homemaker-home health aide, home care  
3 aide, adult day services, or other provider of in-home services  
4 if the employee provides direct services to consumers.

5 (2) An employee of a hospice, if the employee provides  
6 direct services to consumers.

7 (3) An employee who provides direct services to consumers  
8 under a federal home and community-based services waiver.

9 (4) An employee of an elder group home certified under  
10 chapter 231B, if the employee provides direct services to  
11 consumers.

12 (5) An employee of an assisted living program certified  
13 under chapter 231C, if the employee provides direct services  
14 to consumers.

15 b. In substantial conformance with the provisions of this  
16 section, prior to the employment of such an employee, the  
17 provider shall request the performance of the criminal and  
18 child and elder and dependent adult abuse record checks. The  
19 provider shall inform the prospective employee and obtain  
20 the prospective employee's signed acknowledgment. The  
21 department of human services shall perform the evaluation of  
22 any criminal record or founded child or elder and dependent  
23 adult abuse record and shall make the determination of whether  
24 a prospective employee of a provider shall not be employed by  
25 the provider.

26 6. a. The department of inspections and appeals, in  
27 conjunction with other departments and agencies of state  
28 government involved with criminal history and abuse registry  
29 information, shall establish a single contact repository for  
30 facilities and other providers to have electronic access to  
31 data to perform background checks for purposes of employment,  
32 as required of the facilities and other providers under this  
33 section.

34 b. The department may access the single contact repository  
35 for any of the following purposes:

1     (1) To verify data transferred from the department's nurse  
2 aide registry to the repository.

3     (2) To conduct record checks of applicants for employment  
4 with the department.

5     7. *a.* If a person employed by a facility, service, or  
6 program employer that is subject to this section is convicted  
7 of a crime or has a record of founded child, elder, or  
8 dependent adult abuse entered in the abuse registry after  
9 the person's employment application date, the person shall  
10 inform the employer of such information within forty-eight  
11 hours of the criminal conviction or entry of the record of  
12 founded child, elder, or dependent adult abuse. The employer  
13 shall act to verify the information within forty-eight  
14 hours of notification. If the information is verified, the  
15 requirements of subsections 2, 3, and 4 regarding employability  
16 and evaluations shall be applied by the employer to determine  
17 whether or not the person's employment is continued. The  
18 employer may continue to employ the person pending the  
19 performance of an evaluation by the department of human  
20 services to determine whether prohibition of the person's  
21 employment is warranted. A person who is required by this  
22 subsection to inform the person's employer of a conviction or  
23 entry of an abuse record and fails to do so within the required  
24 period commits a serious misdemeanor.

25     *b.* If a facility, service, or program employer receives  
26 credible information, as determined by the employer, that a  
27 person employed by the employer has been convicted of a crime  
28 or a record of founded child, elder, or dependent adult abuse  
29 has been entered in the abuse registry after employment from  
30 a person other than the employee and the employee has not  
31 informed the employer of such information within the period  
32 required under paragraph "a", the employer shall act to verify  
33 the credible information within forty-eight hours of receipt of  
34 the credible information. If the information is verified, the  
35 requirements of subsections 2, 3, and 4 regarding employability

1 and evaluations shall be applied to determine whether or not  
2 the person's employment is continued.

3     c. The employer may notify the county attorney for the  
4 county where the employer is located of any violation or  
5 failure by an employee to notify the employer of a criminal  
6 conviction or entry of an abuse record within the period  
7 required under paragraph "a".

8     8. a. For the purposes of this subsection, unless the  
9 context otherwise requires:

10     (1) "*Certified nurse aide training program*" means a program  
11 approved in accordance with the rules for such programs adopted  
12 by the department of human services for the training of persons  
13 seeking to be a certified nurse aide for employment in any of  
14 the facilities or programs this section applies to or in a  
15 hospital, as defined in section 135B.1.

16     (2) "*Student*" means a person applying for, enrolled in, or  
17 returning to a certified nurse aide training program.

18     b. Prior to a student beginning or returning to a certified  
19 nurse aide training program, the program shall request that the  
20 department of public safety perform a criminal history check  
21 and the department of human services perform child and elder  
22 and dependent adult abuse record checks, in this state, of the  
23 student. The program may access the single contact repository  
24 established pursuant to this section as necessary for the  
25 program to initiate the record checks.

26     c. If a student has a criminal record or a record of founded  
27 child, elder, or dependent adult abuse, the student shall not  
28 be involved in a clinical education component of the certified  
29 nurse aide training program involving children, elders, or  
30 dependent adults unless an evaluation has been performed by the  
31 department of human services. Upon request of the certified  
32 nurse aide training program, the department of human services  
33 shall perform an evaluation to determine whether the record  
34 warrants prohibition of the student's involvement in a clinical  
35 education component of the certified nurse aide training

1 program involving children, elders, or dependent adults. The  
2 evaluation shall be performed in accordance with the criteria  
3 specified in subsection 3, and the department of human services  
4 shall report the results of the evaluation to the certified  
5 nurse aide training program. The department of human services  
6 has final authority in determining whether prohibition of the  
7 student's involvement in the clinical education component is  
8 warranted.

9     *d.* (1) If a student's clinical education component of  
10 the training program involves children, elders, or dependent  
11 adults but does not involve operation of a motor vehicle,  
12 and the student has been convicted of a crime listed in  
13 subparagraph (2), but does not have a record of founded child,  
14 elder, or dependent adult abuse, and the training program  
15 has requested an evaluation in accordance with paragraph "c"  
16 to determine whether the crime warrants prohibition of the  
17 student's involvement in such clinical education component, the  
18 training program may allow the student's participation in the  
19 component for not more than sixty days pending completion of  
20 the evaluation.

21     (2) Subparagraph (1) applies to a crime that is a simple  
22 misdemeanor offense under section 123.47 or chapter 321, and  
23 to a crime that is a first offense of operating a motor vehicle  
24 while intoxicated under section 321J.2, subsection 1.

25     *e.* (1) If a student is convicted of a crime or has a  
26 record of founded child, elder, or dependent adult abuse  
27 entered in the abuse registry after the record checks and any  
28 evaluation have been performed, the student shall inform the  
29 certified nurse aide training program of such information  
30 within forty-eight hours of the criminal conviction or entry  
31 of the record of founded child, elder, or dependent adult  
32 abuse. The program shall act to verify the information within  
33 forty-eight hours of notification. If the information is  
34 verified, the requirements of paragraph "c" shall be applied  
35 by the program to determine whether or not the student's

1 involvement in a clinical education component may continue.  
 2 The program may allow the student involvement to continue  
 3 pending the performance of an evaluation by the department of  
 4 human services. A student who is required by this subparagraph  
 5 to inform the program of a conviction or entry of an abuse  
 6 record and fails to do so within the required period commits  
 7 a serious misdemeanor.

8 (2) If a program receives credible information, as  
 9 determined by the program, that a student has been convicted of  
 10 a crime or a record of founded child, elder, or dependent adult  
 11 abuse has been entered in the abuse registry after the record  
 12 checks and any evaluation have been performed, from a person  
 13 other than the student and the student has not informed the  
 14 program of such information within the period required under  
 15 subparagraph (1), the program shall act to verify the credible  
 16 information within forty-eight hours of receipt of the credible  
 17 information. If the information is verified, the requirements  
 18 of paragraph "c" shall be applied to determine whether or not  
 19 the student's involvement in a clinical education component may  
 20 continue.

21 (3) The program may notify the county attorney for the  
 22 county where the program is located of any violation or failure  
 23 by a student to notify the program of a criminal conviction  
 24 or entry of an abuse record within the period required under  
 25 subparagraph (1).

26 f. If a certified nurse aide training program is conducted  
 27 by a health care facility and a student of that program  
 28 subsequently accepts and begins employment with the facility  
 29 within thirty days of completing the program, the criminal  
 30 history and abuse registry checks of the student performed  
 31 pursuant to this subsection shall be deemed to fulfill the  
 32 requirements for such checks prior to employment pursuant to  
 33 subsection 1.

34 Sec. 28. Section 135H.7, subsections 4 and 6, Code 2014, are  
 35 amended to read as follows:

1     4. In addition to the record checks required under  
2 subsection 2, the department of human services may conduct  
3 elder and dependent adult abuse record checks in this state  
4 and may conduct these checks in other states, on a random  
5 basis. The provisions of subsections 2 and 3, relative to an  
6 evaluation following a determination that a person has been  
7 convicted of a crime or has a record of founded child abuse,  
8 shall also apply to a random elder and dependent adult abuse  
9 record check conducted under this subsection.

10     6. On or after July 1, 1994, a licensee shall include the  
11 following inquiry in an application for employment:

12     Do you have a record of founded child, elder, or dependent  
13 adult abuse or have you ever been convicted of a crime, in this  
14 state or any other state?

15     Sec. 29. Section 1350.3, subsection 4, Code 2014, is amended  
16 to read as follows:

17     4. If the department or a multidisciplinary team has  
18 probable cause to believe that a boarding home is in violation  
19 of this chapter or licensing or other regulatory requirements  
20 of the department of human services, department of inspections  
21 and appeals, or department of public health, or that elder or  
22 dependent adult abuse of any individual living in a boarding  
23 home has occurred, and upon producing proper identification, is  
24 denied entry to the boarding home or access to any individual  
25 living in the boarding home for the purpose of making an  
26 inspection or conducting an investigation, the department or  
27 multidisciplinary team may, with the assistance of the county  
28 attorney of the county in which the boarding home is located,  
29 apply to the district court for an order requiring the owner or  
30 lessee to permit entry to the boarding home and access to the  
31 individuals living in the boarding home.

32     Sec. 30. Section 144A.11, subsection 1, Code 2014, is  
33 amended to read as follows:

34     1. Death resulting from the withholding or withdrawal  
35 of life-sustaining procedures pursuant to a declaration or

1 out-of-hospital do-not-resuscitate order and in accordance with  
2 this chapter does not, for any purpose, constitute a suicide,  
3 homicide, or elder or dependent adult abuse.

4 Sec. 31. Section 144D.4, subsection 4, Code 2014, is amended  
5 to read as follows:

6 4. Death resulting from the withholding or withdrawal of  
7 life-sustaining procedures pursuant to an executed POST form  
8 and in accordance with this chapter does not, for any purpose,  
9 constitute a suicide, homicide, or elder or dependent adult  
10 abuse.

11 Sec. 32. Section 152.5, subsection 3, paragraphs c and d,  
12 Code 2014, are amended to read as follows:

13 c. A nursing program shall request that the department  
14 of public safety perform a criminal history check and the  
15 department of human services perform child and elder and  
16 dependent adult abuse record checks in this state on the  
17 nursing program's students.

18 d. If a student has a criminal record or a record of  
19 founded child, elder, or dependent adult abuse, upon request  
20 of the nursing program, the department of human services shall  
21 perform an evaluation to determine whether the record warrants  
22 prohibition of the person's involvement in a clinical education  
23 component of a nursing program involving children, elders,  
24 or dependent adults. The department of human services shall  
25 utilize the criteria provided in section 135C.33 in performing  
26 the evaluation and shall report the results of the evaluation  
27 to the nursing program. The department of human services has  
28 final authority in determining whether prohibition of the  
29 person's involvement in a clinical education component is  
30 warranted.

31 Sec. 33. Section 216A.136, subsection 3, Code 2014, is  
32 amended to read as follows:

33 3. ~~Dependent~~ Elder and dependent adult abuse records  
34 maintained under chapter 235B.

35 Sec. 34. Section 217.44, subsections 1, 2, and 4, Code 2014,

1 are amended to read as follows:

2 1. The department shall conduct criminal and child and  
3 elder and dependent adult abuse record checks of persons who  
4 are potential employees, employees, potential volunteers, and  
5 volunteers in service area offices in a position having direct  
6 contact with the department's clients. The record checks shall  
7 be performed in this state and the department may conduct these  
8 checks in other states. If the department determines that a  
9 person has been convicted of a crime or has a record of founded  
10 child, elder, or dependent adult abuse, the department shall  
11 perform an evaluation to determine whether the crime or founded  
12 abuse warrants prohibition of the person's employment or  
13 participation as a volunteer. The record checks and evaluation  
14 shall be performed in accordance with procedures adopted for  
15 this purpose by the department.

16 2. In an evaluation, the department shall consider  
17 the nature and seriousness of the crime or founded child,  
18 elder, or dependent adult abuse in relation to the position  
19 sought or held, the time elapsed since the commission of the  
20 crime or founded child, elder, or dependent adult abuse,  
21 the circumstances under which the crime or founded child,  
22 elder, or dependent adult abuse was committed, the degree of  
23 rehabilitation, the likelihood that the person will commit the  
24 crime or founded child, elder, or dependent adult abuse again,  
25 and the number of crimes or founded child, elder, or dependent  
26 adult abuses committed by the person involved.

27 4. If the department determines that the person has  
28 committed a crime or has a record of founded child, elder, or  
29 dependent adult abuse which warrants prohibition of employment  
30 or participation as a volunteer, the person shall not be  
31 employed by or participate as a volunteer in a department  
32 service area office in a position having direct contact with  
33 the department's clients.

34 Sec. 35. Section 218.13, subsections 2, 3, 4, and 5, Code  
35 2014, are amended to read as follows:



1     2. If a person is being considered for employment involving  
2 direct responsibility for a resident or with access to a  
3 resident when the resident is alone, or if a person will reside  
4 in a facility utilized by an institution, and if the person  
5 has been convicted of a crime or has a record of founded  
6 child, elder, or dependent adult abuse, the department shall  
7 perform an evaluation to determine whether the crime or founded  
8 abuse warrants prohibition of employment or residence in the  
9 facility. The department shall conduct criminal and child and  
10 elder and dependent adult abuse record checks of the person in  
11 this state and may conduct these checks in other states. The  
12 investigation and evaluation shall be performed in accordance  
13 with procedures adopted for this purpose by the department.

14     3. If the department determines that a person, who is  
15 employed by an institution or resides in a facility utilized  
16 by an institution, has been convicted of a crime or has a  
17 record of founded child, elder, or dependent adult abuse,  
18 the department shall perform an evaluation to determine  
19 whether prohibition of the person's employment or residence is  
20 warranted. The evaluation shall be performed in accordance  
21 with procedures adopted for this purpose by the department.

22     4. In an evaluation, the department shall consider  
23 the nature and seriousness of the crime or founded child,  
24 elder, or dependent adult abuse in relation to the position  
25 sought or held, the time elapsed since the commission of the  
26 crime or founded child, elder, or dependent adult abuse,  
27 the circumstances under which the crime or founded child,  
28 elder, or dependent adult abuse was committed, the degree of  
29 rehabilitation, the likelihood that the person will commit the  
30 crime or founded child, elder, or dependent adult abuse again,  
31 and the number of crimes or founded child, elder, or dependent  
32 adult abuses committed by the person involved. The department  
33 may permit a person who is evaluated to be employed or reside  
34 or to continue employment or residence if the person complies  
35 with the department's conditions relating to employment or

1 residence which may include completion of additional training.

2 5. If the department determines that the person has  
3 committed a crime or has a record of founded child, elder,  
4 or dependent adult abuse which warrants prohibition of  
5 employment or residence, the person shall not be employed by an  
6 institution or reside in a facility utilized by an institution.

7 Sec. 36. Section 231B.10, subsection 1, paragraph f, Code  
8 2014, is amended to read as follows:

9 f. Founded elder or dependent adult abuse as defined in  
10 section 235B.2.

11 Sec. 37. Section 231C.10, subsection 1, paragraph f, Code  
12 2014, is amended to read as follows:

13 f. Failure to protect tenants from elder or dependent adult  
14 abuse as defined in section ~~235E.1~~ 235B.2.

15 Sec. 38. Section 231D.5, subsection 1, paragraph g, Code  
16 2014, is amended to read as follows:

17 g. Founded elder or dependent adult abuse as defined in  
18 section 235B.2.

19 Sec. 39. Section 232.71B, subsection 9, Code 2014, is  
20 amended to read as follows:

21 9. *Protective disclosure.* If the department determines  
22 that disclosure is necessary for the protection of a child,  
23 the department may disclose to a subject of a child abuse  
24 report referred to in section 235A.15, subsection 2, paragraph  
25 "a", that an individual is listed in the child or elder and  
26 dependent adult abuse registry or is required to register with  
27 the sex offender registry in accordance with chapter 692A.

28 Sec. 40. Section 237.8, subsections 3 and 5, Code 2014, are  
29 amended to read as follows:

30 3. In addition to the record checks required under  
31 subsection 2, the department of human services may conduct  
32 elder and dependent adult abuse record checks in this state and  
33 may conduct these checks in other states, on a random basis.  
34 The provisions of subsection 2, relative to an evaluation  
35 following a determination that a person has been convicted of a

1 crime or has a record of founded child abuse, shall also apply  
2 to a random check conducted under this subsection.

3 5. On or after July 1, 1994, a licensee shall include the  
4 following inquiry in an application for employment:

5 Do you have a record of founded child, elder, or dependent  
6 adult abuse or have you ever been convicted of a crime, in this  
7 state or any other state?

8 Sec. 41. Section 237A.5, subsection 2, paragraph a,  
9 subparagraph (3), subparagraph division (b), Code 2014, is  
10 amended to read as follows:

11 (b) A record of having committed founded child, elder, or  
12 dependent adult abuse.

13 Sec. 42. Section 237A.5, subsection 2, paragraph c, Code  
14 2014, is amended to read as follows:

15 c. Unless a record check has already been conducted in  
16 accordance with paragraph "b", the department shall conduct  
17 a an elder and dependent adult and criminal and child abuse  
18 record check in this state for a person who is subject to a  
19 record check and may conduct such a check in other states. In  
20 addition, the department may conduct a dependent adult abuse,  
21 sex offender registry, or other public or civil offense record  
22 check in this state or in other states for a person who is  
23 subject to a record check.

24 Sec. 43. Section 237A.5, subsection 2, paragraph i,  
25 subparagraph (1), unnumbered paragraph 1, Code 2014, is amended  
26 to read as follows:

27 A person subject to an evaluation shall be prohibited  
28 from involvement with child care if the person has a record  
29 of founded child, elder, or dependent adult abuse that was  
30 determined to be sexual abuse, the person is listed on the  
31 sex offender registry under chapter 692A, or the person has  
32 committed any of the following felony-level offenses:

33 Sec. 44. Section 237A.5, subsection 4, Code 2014, is amended  
34 to read as follows:

35 4. On or after July 1, 1994, a licensee or registrant shall

1 include the following inquiry in an application for employment:

2 Do you have a record of founded child, elder, or dependent  
3 adult abuse or have you ever been convicted of a crime, in this  
4 state or any other state?

5 Sec. 45. Section 249A.29, subsection 2, Code 2014, is  
6 amended to read as follows:

7 2. If a person is being considered by a provider for  
8 employment involving direct responsibility for a consumer or  
9 with access to a consumer when the consumer is alone, and if  
10 the person has been convicted of a crime or has a record of  
11 founded child, elder, or dependent adult abuse, the department  
12 shall perform an evaluation to determine whether the crime  
13 or founded child, elder, or dependent adult abuse warrants  
14 prohibition of employment by the provider. The department  
15 shall conduct criminal and child and elder and dependent  
16 adult abuse records checks of the person in this state and  
17 may conduct these checks in other states. The records checks  
18 and evaluations required by this section shall be performed  
19 in accordance with procedures adopted for this purpose by the  
20 department.

21 Sec. 46. Section 272.2, subsection 17, Code 2014, is amended  
22 to read as follows:

23 17. Adopt rules to require that a background investigation  
24 be conducted by the division of criminal investigation of the  
25 department of public safety on all initial applicants for  
26 licensure. The board shall also require all initial applicants  
27 to submit a completed fingerprint packet and shall use the  
28 packet to facilitate a national criminal history background  
29 check. The board shall have access to, and shall review  
30 the sex offender registry information under section 692A.121  
31 available to the general public, the central registry for child  
32 abuse information established under chapter 235A, and the elder  
33 and dependent adult abuse records maintained under chapter 235B  
34 for information regarding applicants for license renewal.

35 Sec. 47. Section 279.13, subsection 1, paragraph b,

1 subparagraph (1), Code 2014, is amended to read as follows:

2     (1) Prior to entering into an initial contract with a  
3 teacher who holds a license other than an initial license  
4 issued by the board of educational examiners under chapter 272,  
5 the school district shall initiate a state criminal history  
6 record check of the applicant through the division of criminal  
7 investigation of the department of public safety, submit the  
8 applicant's fingerprints to the division for submission to the  
9 federal bureau of investigation for a national criminal history  
10 record check, and review the sex offender registry information  
11 under section 692A.121 available to the general public, the  
12 central registry for child abuse information established  
13 under section 235A.14, and the central registry for elder and  
14 dependent adult abuse information established under section  
15 235B.5 for information regarding the applicant for employment  
16 as a teacher.

17     Sec. 48. Section 279.69, subsections 1 and 2, Code 2014, are  
18 amended to read as follows:

19     1. Prior to hiring an applicant for a school employee  
20 position, a school district shall have access to and shall  
21 review the information in the Iowa court information system  
22 available to the general public, the sex offender registry  
23 information under section 692A.121 available to the general  
24 public, the central registry for child abuse information  
25 established under section 235A.14, and the central registry  
26 for elder and dependent adult abuse information established  
27 under section 235B.5 for information regarding the applicant.  
28 A school district shall follow the same procedure by June 30,  
29 2014, for each school employee employed by the school district  
30 as of July 1, 2013. A school district shall implement a  
31 consistent policy to follow the same procedure for each school  
32 employee employed by the school district on or after July 1,  
33 2013, at least every five years after the school employee's  
34 initial date of hire. A school district shall not charge  
35 an employee for the cost of the registry checks conducted

1 pursuant to this subsection. A school district shall maintain  
2 documentation demonstrating compliance with this subsection.

3 2. Being listed in the sex offender registry established  
4 under chapter 692A, the central registry for child abuse  
5 information established under section 235A.14, or the central  
6 registry for elder and dependent adult abuse information  
7 established under section 235B.5 shall constitute grounds for  
8 the immediate suspension from duties of a school employee,  
9 pending a termination hearing by the board of directors of a  
10 school district. A termination hearing conducted pursuant to  
11 this subsection shall be limited to the question of whether the  
12 school employee was incorrectly listed in the registry.

13 Sec. 49. Section 321.375, subsection 2, Code 2014, is  
14 amended to read as follows:

15 2. Prior to hiring an applicant for a school bus driver  
16 position, including a contract position, an employer shall have  
17 access to and shall review the information in the Iowa court  
18 information system available to the general public, the sex  
19 offender registry information under section 692A.121 available  
20 to the general public, the central registry for child abuse  
21 information established under section 235A.14, and the central  
22 registry for elder and dependent adult abuse information  
23 established under section 235B.5 for information regarding the  
24 applicant. An employer shall follow the same procedure upon  
25 the renewal of an employee's or contract employee's school bus  
26 driver's license issued by the department of transportation  
27 valid for the operation of a school bus. An employer shall  
28 pay for the cost of the registry checks conducted pursuant to  
29 this subsection. An employer shall maintain documentation  
30 demonstrating compliance with this subsection.

31 Sec. 50. Section 321.375, subsection 3, paragraph e, Code  
32 2014, is amended to read as follows:

33 e. The school bus driver is listed in the sex offender  
34 registry established under chapter 692A, the central registry  
35 for child abuse information established under section 235A.14,

1 or the central registry for elder and dependent adult abuse  
2 information established under section 235B.5. A termination  
3 hearing conducted pursuant to this paragraph shall be  
4 limited to the question of whether the school bus driver was  
5 incorrectly listed in the registry.

6 Sec. 51. Section 331.909, subsection 2, Code 2014, is  
7 amended to read as follows:

8 2. The activities of a multidisciplinary community services  
9 team shall not duplicate the activities of a multidisciplinary  
10 team for child abuse under section 235A.13, elder and dependent  
11 adult abuse activities under section 235B.6, or child victim  
12 services provided under section 915.35.

13 Sec. 52. Section 598.41D, subsection 4, paragraph b,  
14 subparagraph (3), Code 2014, is amended to read as follows:

15 (3) That the specified family member does not have a record  
16 of founded child, elder, or dependent adult abuse.

17 Sec. 53. Section 692A.102, subsection 1, paragraph b,  
18 subparagraph (17), Code 2014, is amended to read as follows:

19 (17) Incest committed against an elder or a dependent adult  
20 as defined in section 235B.2 in violation of section 726.2.

21 Sec. 54. Section 692A.115, Code 2014, is amended to read as  
22 follows:

23 **692A.115 Employment where elders or dependent adults reside.**

24 1. Unless authorized as provided in subsection 2, a sex  
25 offender shall not be an employee of a facility providing  
26 services for elders or dependent adults or at events where  
27 dependent adults participate in programming and shall not  
28 loiter on the premises or grounds of a facility or at an event  
29 providing such services or programming.

30 2. An adult sex offender who is a patient or resident  
31 of a health care facility as defined in section 135C.1,  
32 a participant in a medical assistance program home and  
33 community-based services waiver program, or a participant in a  
34 medical assistance state plan employment services as part of  
35 the participant's habilitation plan shall not be considered to

1 be in violation of subsection 1.

2 Sec. 55. Section 726.8, Code 2014, is amended to read as  
3 follows:

4 **726.8 Wanton neglect or nonsupport of an elder or a dependent**  
5 **adult.**

6 1. A caretaker commits wanton neglect of an elder or a  
7 dependent adult if the caretaker knowingly acts in a manner  
8 likely to be injurious to the physical, mental, or emotional  
9 welfare of an elder or a dependent adult. Wanton neglect of an  
10 elder or a dependent adult is a serious misdemeanor.

11 2. A person who has legal responsibility either through  
12 contract or court order for support of an elder or a dependent  
13 adult and who fails or refuses to provide support commits  
14 nonsupport. Nonsupport is a class "D" felony.

15 3. A person alleged to have committed wanton neglect or  
16 nonsupport of an elder or a dependent adult shall be charged  
17 with the respective offense unless a charge may be brought  
18 based upon a more serious offense, in which case the charge  
19 of the more serious offense shall supersede the less serious  
20 charge.

21 4. For the purposes of this section, "*dependent adult*" means  
22 ~~a dependent adult as defined in section 235B.2, subsection 4,~~  
23 "elder", and "*caretaker*" ~~means a caretaker~~ mean the same as  
24 defined in section 235B.2, ~~subsection 1.~~

25 Sec. 56. Section 915.84, subsection 3, Code 2014, is amended  
26 to read as follows:

27 3. Notwithstanding subsection 2, a victim under the age of  
28 eighteen or an elder or a dependent adult as defined in section  
29 235B.2 who has been sexually abused or subjected to any other  
30 unlawful sexual conduct under chapter 709 or 726 or who has  
31 been the subject of a forcible felony is not required to report  
32 the crime to the local police department or county sheriff  
33 department to be eligible for compensation if the crime was  
34 allegedly committed upon a child by a person responsible for  
35 the care of a child, as defined in section 232.68, subsection



1 8, ~~or~~ upon an elder as defined in section 235B.2 by any person,  
2 or upon a dependent adult by a caretaker as defined in section  
3 235B.2, and was reported to an employee of the department of  
4 human services and the employee verifies the report to the  
5 department.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with  
8 the explanation's substance by the members of the general assembly.

9 This bill expands provisions relating to dependent adult  
10 abuse including reporting of dependent adult abuse, the  
11 dependent adult abuse registry, and provision of protective  
12 services to be applicable to elders and elder abuse. The bill  
13 defines "elder" to be a resident of this state who is 65 years  
14 of age or older.

15 The bill eliminates the restriction of the definition  
16 of abuse to only perpetration of abuse by caretakers and  
17 instead provides that abuse may be perpetrated by any person  
18 including a caretaker. The bill defines "abuse" to include  
19 financial exploitation which means the illegal, unauthorized,  
20 or improper taking or use of an elder's or dependent adult's  
21 funds, property, or assets for the personal or pecuniary profit  
22 or benefit of a person other than the elder or dependent  
23 adult. Financial exploitation includes but is not limited to  
24 possessing or using an elder's or dependent adult's funds,  
25 property, or other assets through undue influence, harassment,  
26 duress, deception, or misrepresentation for the profit or  
27 benefit of a person other than the elder or dependent adult.  
28 However, the bill specifically excludes from the definition  
29 of abuse, good-faith assistance in managing the financial  
30 affairs of an elder or dependent adult by a family or household  
31 member or other person, undertaken at the request of an elder,  
32 dependent adult, or a family member, guardian or conservator  
33 of an elder or dependent adult.

34 The bill adds a provision regarding the making of a report  
35 of suspected elder or dependent adult abuse to provide that a

1 person making a report who reasonably believes that an elder or  
2 dependent adult is in immediate danger shall also make a report  
3 to the appropriate law enforcement agency.

4 The bill provides other criminal relief for older  
5 individuals.

6 The bill establishes the crime of theft against an older  
7 individual which enhances the penalties for the existing crime  
8 of theft by one degree based upon the victim being an older  
9 individual.

10 The bill amends the criminal provision providing for  
11 additional civil penalties for consumer frauds against the  
12 elderly to apply to the provision to consumer frauds against  
13 older individuals 60 years of age or older.

14 The bill establishes the crime of financial exploitation of  
15 an older individual. A person commits financial exploitation  
16 of an older individual when the person stands in a position of  
17 trust or confidence with the older individual and knowingly  
18 and by undue influence, deception, coercion, fraud, breach of  
19 fiduciary duty, or extortion, obtains control over or otherwise  
20 uses the benefits, property, resources, belongings, or assets  
21 of the older individual. The criminal penalties range from a  
22 serious misdemeanor to a class "B" felony based on the amount  
23 of benefits, property, resources, belongings, or assets of the  
24 older individual involved. In addition, the application of  
25 the class "B" felony is adjusted based on the increased age of  
26 the older individual in addition to the value of the benefits,  
27 property, resources, belongings, or assets involved.

28 The bill makes conforming changes throughout the Code to  
29 provide that provisions currently applicable to dependent adult  
30 abuse are also applicable to elder abuse.